

UNITED STATES DISTRICT COURT

Middle District of Tennessee

In the Matter of the Search of

(Name, address or brief description of person or property to be searched)

SEARCH WARRANT

SABRE DEFENCE INDUSTRIES, LLC WAREHOUSE, 447 Atlas Drive, Nashville, Tennessee 37211 (more particularly described in Attachment A) and any attachments, outbuildings, appurtenances thereto and vehicles upon the property

Case Number:

10-2011-MK

TO: Special Agent John Nokes and any Authorized Officer of the United States

Affidavit(s) having been made before me by Special Agent John Nokes who has reason to believe Affiant

that] on the person of, or [x] on the premises known as (name, description and/or location)

SABRE DEFENCE INDUSTRIES, LLC WAREHOUSE, 447 Atlas Drive, Nashville, Tennessee 37211 (more particularly described in Attachment A) and any attachments, outbuildings, appurtenances thereto and vehicles upon the property

in the Middle District of Tennessee there is now concealed a certain person or property, namely (describe the person or property)

The property described in Attachment B to the Application and Affidavit for Search Warrant; Attachment B is fully incorporated herein.

I am satisfied that the affidavit(s) and any record testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before February 26, 2010

Date

(not to exceed 10 days) the person or place named above for the person or property specified, serving this warrant and making the search in the daytime 6:00 AM to 10:00 P.M. at anytime in the day or night as I find reasonable cause has been established and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to

E. Clifton Knowles (U.S. Magistrate Judge) as required by law.

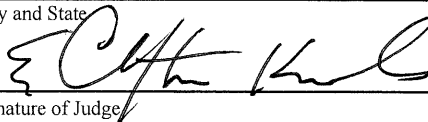
U.S. Magistrate Judge (Rule 41(f)(4))

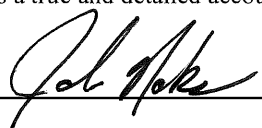

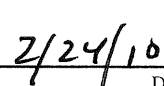
February 17, 2010 at 9:56 AM
Date and Time Issued

at

Nashville, Tennessee 37203
City and State

E. Clifton Knowles, U.S. Magistrate Judge
Name and Title of Judge


Signature of Judge

RETURN		Case Number:
DATE WARRANT RECEIVED 2-17-2010	DATE AND TIME WARRANT EXECUTED 2-17-2010 @ 11:00 A.m.	COPY OF WARRANT AND RECEIPT FOR ITEMS LEFT WITH CHARLES SHEARON; ELMER HILL
INVENTORY MADE IN THE PRESENCE OF CHARLES SHEARON		
INVENTORY OF PERSON OR PROPERTY TAKEN PURSUANT TO THE WARRANT SEE ATTACHMENT		
CERTIFICATION		
I swear that this inventory is a true and detailed account of the person or property taken by me on the warrant.  _____		
Subscribed, sworn to, and returned before me this date.  _____ Signature of Judge		
		 _____ Date

Items seized from SDI-US WAREHOUSE located at 447 Atlas Drive, Nashville, Tennessee pursuant to federal search warrant executed 02/17/2010. JN

Items	Description
Financial	2007 Accounts Payable Files MAC-MO
Financial	2007 Accounts Payable Files MSC-Q
Financial	2007 Accounts Payable Files FI-MAC Steel
Computer	CMS; P/N 91-90834.050 S/N 93900477JK
Financial	2005 Accounts Payable A-Fifth Third
Financial	2006 Time cards
Financial	Invoices
Financial	2007 Accounts Payable U-Z
Financial	2006 Accounts Payable SU-T
Financial	Old business records/diagrams
Financial	2007 Accounts Payable R-T
Financial	2005 Accounts Payable U-Z Also Comm Cash Emp. AR & Vendor bills paid Detailed Summary
Financial	2003 Accounts Receivable
Financial	2005 Accounts Payable MEDS MET-Perry Johnson
Financial	Old Business records/diagrams
Financial	2005 Bank recon/financial/stats E2 Conversion data
Financial	2007 Financial Statements
Financial	2005 Accounts Payable Petty Cash-Turner
Financial	2007 Dep Slips Timecards 6/07 - 12/07
Financial	2007 Accounts Payable A-FA
Financial	2004 Accounts Payable K-Mid-Sough
Financial	2005 Accounts Payable - Fifth-Third-Micor
Financial	2005 Time card reports
Financial	2003 Accounts Payable A-L
Financial	2008 Physical Inventory
Financial	2006 MIC-Mid South 4
Financial	Old Business Records
Financial	2003 Payroll Records; bank reconciliations; and employee time cards
Financial	2006 E-Hil Invoices
Financial	2006 W-Z Bank Reconciliations 2006; Sabre Holdings 2005-2006
Financial	2006 Accounts Payable P-ST
Financial	2006 Mid S-O
Financial	2004 Accounts Payable A-Cricket
Financial	Payroll 2004 Financial Statements 2004
Financial	Old business records/various invoices

Financial	Volunteer Weld-Z Vendor Credit APS Fin Statements 2004/Bank Recon.
Financial	2006 Accounts Receivable Files A-Z
Financial	2006 Accounts Payable Hit-Met
Financial	2004 Time cards Payroll Report/Register Diagram
Financial	2006 A-D Invoices
Financial	Mid TN Chemical - Remedy 2004
Suppressor	17 Suppressors, No Model or S/N
Financial	2006 Accounts Payable U-V
Suppressor	OPS INC 50 Cal MB53305 Suppressor
Suppressor	SDI Nashville, Model: XM1075 SIN: XSUP-0001 Suppressor

JN

UNITED STATES DISTRICT COURT

Middle

DISTRICT OF

Tennessee

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

SABRE DEFENCE INDUSTRIES, LLC WAREHOUSE, 447
Atlas Drive, Nashville, Tennessee 37211 (more particularly
described in Attachment A) and any attachments,
outbuildings, appurtenances thereto and vehicles upon the
property

APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

Case Number:

10-2011-MK

I, John Nokes being duly sworn depose and say:I am a(n) Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives and have reason to believe
Official Title

that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)
SABRE DEFENCE INDUSTRIES, LLC WAREHOUSE, 447 Atlas Drive, Nashville, Tennessee 37211 (more particularly
described in Attachment A; Attachment A is fully incorporated herein) and any attachments, outbuildings, appurtenances
thereto and vehicles upon the property;

in the Middle District of Tennessee

there is now concealed a certain person or property, namely (describe the person or property to be seized)

The property described in Attachment B to this Application and Affidavit for Search Warrant; Attachment B is fully
incorporated herein.

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)

Evidence of a criminal offense or things otherwise criminally possessed or property designed or intended for use or which is
or has been used as the means of committing a criminal offense (as further described in Attachment B)concerning a violation of Title 18 and 22 United States code, Section(s) (set forth in Attachments B and C)

The facts to support a finding of probable cause are as follows:

See attached affidavit marked as Attachment C (which incorporates Attachment D; Attachment D is fully incorporated
herein).

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Signature of Affiant

Sworn to before me and subscribed in my presence,

February 17, 2010

Date

at Nashville, Tennessee 37203

City

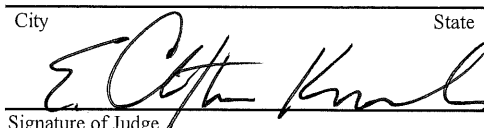
State

E. Clifton Knowles

Name of Judge

U.S. Magistrate Judge

Title of Judge



Signature of Judge

Attachment A

DESCRIPTION OF PREMISES TO BE SEARCHED

1. The premises to be searched are located at 447 Atlas Drive, in Nashville, Davidson County, Tennessee 37211. Said premises is described as SABRE DEFENCE INDUSTRIES, LLC WAREHOUSE, which consists of a metal building located in an industrial park style area, approximately two tenths of a mile from SDI-US.

2. From the intersection of Keystone Avenue and Atlas Drive, the property will be the second metal building on the right. Said property is further identified as a blue in color metal building. When standing on Atlas drive looking at said blue building, to the left is a metal building which is beige in color with multiple white vertical stripes. To the right of said blue building is a greenish in color metal building with two horizontal black stripes.

3. The front of the building faces Atlas drive and is further described as having a large blue garage door. In the center of said garage door is a small window. To the left of the garage door is a solid metal man sized entry door and has black numbers attached that read 447. To the right of the garage door is a second man sized door and is further described as having 6 small windows at the top and a solid bottom. Attached to the bottom of this second door is a blue sign that reads entrance. To the right of this second aforementioned door is a third man sized door which consists of a large elongated window and solid bottom. Additionally, this third door is covered by a blue metal awning.

4. The premises described herein are located as follows: From Broadway in downtown Nashville, take Interstate-40 East/I-65 South for approximately .7 miles and merge onto I-65 South via exit 210 towards Huntsville. Take I-65 South for approximately 1.9 miles and Merge onto I-440 East via exit 80 towards Knoxville. Drive 1.6 miles on I-440 and take the

US-31A South/US-41A South exit, which is exit 6. Turn slight right onto Nolensville Rd/Nolensville Pike/US-31A/US-41A/TN-11 and drive for approximately 2.2 miles and turn right onto McNally Drive. Travel approximately .2 miles on McNally Drive and turn right on Atlas Drive. Once you turn onto Atlas Drive the premises will be on the right in approximately .2 miles.

PHOTOGRAPHS OF PREMISES TO BE SEARCHED

PREMISES LOCATED AT 447 ATLAS DRIVE, NASHVILLE, DAVIDSON COUNTY
37211.





Attachment B

ITEMS TO BE SEIZED

Evidence, fruits and/or instrumentalities of violations of Title 18, United States Code, Sections 922(a)(1)(a) 922(k), 922(a)(6), 922(m), 924(a)(1), 925(d)(3), 921(a)(1), 371, 1001, 541, 542, 545, and 554, and Title 22, United States Code, Sections 2751 to 2799aa-2, including the following, in whatever form, whether paper, electronic or otherwise:

A. Any and all files, contracts and agreements, quotations, purchase orders, invoices, purchase order summaries, and acquisition and disposition records related to the sale or other disposition of firearms and/or firearms components to employees of SDI-US;

B. Any and all files, contracts and agreements, subcontracts, quotations, purchase orders, invoices, packing lists, bills of lading, air waybills, Shipper's Letters of Instruction, Shipper's Export Declarations, and other shipping documentation, related to the sale or other disposition and shipment of firearms and firearms components by SDI-US to parties located outside of the United States;

C. Any and all files, contracts and agreements, subcontracts, quotations, purchase orders, invoices, packing lists, bills of lading, air waybills, Shipper's Letters of Instruction, Shipper's Export Declarations, and other shipping documentation, related to the sale or other disposition and shipment of firearms and firearms components to SDI-US by parties located outside of the United States;

D. Any and all export and import license applications, commodity classification requests, and supporting documentation concerning the completed or contemplated transactions set forth in A, B or C;

E. Any and all facsimile communications, electronic mail ("e-mail") communications, correspondence, telephone messages, calendars, sale acknowledgments, technical specifications, internal memoranda, notes from meetings and conversations concerning the completed or contemplated transactions set forth in A, B or C;

F. Any and all facsimile communications, electronic mail ("e-mail") communications, and other correspondence with any employees of companies or governments located abroad concerning the completed or contemplated transactions set forth in A, B or C;

G. Letters of credit, bank drafts and other records of payment concerning the completed or contemplated transactions set forth in A, B or C;

H. Books of original entry, including but not limited to, general, cash receipts, sales, cash disbursements, purchases, payroll and other journals concerning the completed or contemplated transactions set forth in A, B or C;

I. General accounts, accounts receivable, accounts payable, and other ledgers of account concerning the completed or contemplated transactions set forth in A, B or C;

J. Bank records such as statements, check stubs and registers, canceled checks, deposit tickets, debit memos, wire transfer documents, certified check memos, and official cashier's checks memos concerning the completed or contemplated transactions set forth in A, B or C;

K. Tax records concerning the completed or contemplated transactions set forth in A, B or C; and

L. Inventory records, including supporting documents and work sheets concerning the completed or contemplated transactions set forth in A, B or C as required by law and otherwise maintained.

ATTACHMENT C

AFFIDAVIT FOR SEARCHWARRANT

I, John Nokes, being first duly sworn, depose and state as follows:

I. TARGET PREMISES AND ITEMS TO BE SEIZED

1. This affidavit is being submitted in support of an application for a warrant to search the SABRE DEFENCE INDUSTRIES, LLC WAREHOUSE, located at 447 Atlas Drive in Nashville, Tennessee ("TARGET PREMISES"), as described more particularly in Attachment A to the Application, for the items set forth in Attachment B to the Application. Attachments A and B are incorporated herein by reference as if fully set forth herein. I believe that there is probable cause to believe that the items set forth in Attachment B will be found in the premises described in Attachment A for the reasons set forth below.

2. This affidavit is being submitted for the limited purpose of obtaining a search warrant. I am setting forth only those facts and circumstances that I believe are necessary to establish probable cause for the issuance of the requested search warrant. Unless otherwise indicated, all written and oral statements referred to herein are set forth in substance and in part, rather than verbatim.

II. BACKGROUND OF AFFIANT

3. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") and have been so employed since 2008. As an ATF agent, I have completed training in the field of criminal investigation through the Criminal Investigator Training Program at the Federal Law Enforcement Training Center and have completed specialized training in the fields of firearms,

explosives and arson, and the Federal laws and regulations pertaining thereto, through the ATF National Academy. I routinely refer to and utilize these laws and regulations during the course of my official duties.

4. I am currently assigned to the ATF Nashville Violent Crime Impact Team (“VCIT”). My duties include the investigation of violations of the federal firearms laws and regulations occurring within the Middle District of Tennessee. I have been the affiant on numerous affidavits for criminal complaints, arrest warrants and search warrants for various violations of federal laws and regulations relating to firearms, explosives and arson. I was previously employed as a Trooper with the Kentucky State Police for approximately ten years.

5. I am acquainted with all aspects of the investigation described below. I have personally participated in this investigation and have witnessed many of the facts and circumstances described herein. In addition, I have received information related to the investigation from other federal law enforcement officials. I also have reviewed documents obtained during the course of the investigation. The statements contained in this affidavit are based on my own observations and review of documents or reliable information provided to me by other law enforcement personnel.

III. STATUTORY BACKGROUND

6. ATF regulations require that a federally licensed firearms importer or manufacturer maintain records reflecting the acquisition and disposition of firearms manufactured or imported by the licensee. Those records must contain the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm.

7. Proper and truthful record keeping and documentation, as mandated by federal statutes and regulations, is essential to ATF to perform its functions with regard to enforcement of

federal statutes and regulations concerning the sale, shipment and distribution of firearms and ATF's assistance to state and local law enforcement. False record keeping impedes the performance of ATF's function and unduly hinders the effective administration of justice.

8. It is unlawful under federal law to conspire to impede a federal agency's performance of its function or to unduly hinder the administration of justice, falsify records, or make false statements concerning the matter under the jurisdiction of a federal agency, including the ATF.

9. Under the Gun Control Act of 1968, as amended ("GCA"), the term firearm means the following: "(A) any weapon (including a starter gun), which will, or is designed to or may readily be converted to expel a projectile by action of an explosive: (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer." 18 U.S.C. § 921(a)(3).

10. Title 18, United States Code, Section 922(k) states, "it shall be unlawful for any person to knowingly ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, altered and has, at any time, been shipped or transported in interstate or foreign commerce."

11. The GCA restricts the importation of firearms into the United States. The GCA directs the Attorney General to authorize the importation of any firearm that is of a type that does not fall within the definition of a firearm as defined in 26 U.S.C. §5845 (a short barreled shotgun or rifle, machine gun, silencer or any other weapon) and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms.

12. A silencer falls within the definition of Title 26, United States Code, Section 5845(a) and is defined as, “any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed to or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in assembly or fabrication”. Title 18, United States Code, Section 925(d)(3) does not authorize the importation of silencers.

13. Title 18, United States Code, Section 922(a)(6) makes it unlawful “for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to knowingly make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious or misrepresented identification intended to or likely to deceive such importer, manufacturer dealer, or collector with the respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition.”

14. Title 18, United States Code, Section 922(m) states that it shall be “unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to knowingly make false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to 18 U.S.C. § 923 (Licensing).”

15. Title 18, United States Code, Section 924(a)(1) makes it unlawful to “knowingly makes false statements or representation with respect to information required to be kept in the records of a person licensed under this chapter.”

16. Title 18, United States Code, Section 925(d)(3) further provides that “in any case where the Attorney General has not authorized the importation of a firearm pursuant to this

paragraph, it shall be unlawful to import any frame, receiver, or barrel of such a firearm which would be prohibited if assembled.”

17. ATF regulations require licensed importers to submit an ATF Form 6, Application and Permit for Importation of Firearms, Ammunition and Implements of War, prior to importing firearms into the United States. Upon approval of the application, the firearms may be imported.

18. When an ATF Form 6 application is approved, upon release of the imported firearms from U.S. Customs, an ATF Form 6A is required to be submitted to ATF identifying the serial numbers of the firearms that were imported. The licensed importer has fifteen days to affix a serial number to the imported firearm if it does not bear a serial number unique to the licensed importer. The importer is then required to submit the Form 6A to ATF with the affixed serial numbers identifying the imported firearm.

19. Title 18, United States Code, Section 922(a)(1)(a) makes it unlawful for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm in interstate commerce.

20. Title 18, United States Code, Section 371 makes it unlawful for two or more persons to conspire to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose.

21. Title 18, United States Code, Section 1001 makes it unlawful for persons in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, to knowingly and willfully falsify, conceal, or cover up by any trick, scheme, or device a material fact; or make any materially false, fictitious, or fraudulent statement or

representation; or make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

22. Title 18, United States Code, Section 541 makes it unlawful for persons to knowingly effect any entry of goods, wares, or merchandise, at less than the true weight or measure thereof, or upon false classification as to quality or value, or by payment of less than the amount of duty legally due.

23. Title 18, United States Code, Section 542 makes it unlawful for persons to introduce into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, whether or not the United States shall or may be deprived of any lawful duties.

24. Title 18, United States Code, Section 545 makes it unlawful for persons to fraudulently or knowingly import or bring into the United States, any merchandise contrary to law, or receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law.

25. Title 18, United States Code, Section 554 makes it unlawful for persons to fraudulently or knowingly export or send from the United States, or attempt to export or send from the United States, any merchandise, article, or object contrary to any law or regulation.

26. The Arms Export Control Act (“AECA”), as amended, and codified at Title 22, United States Code, Sections 2751 to 2799aa-2, authorizes the President to control the export and import of commodities, services and technologies designated as “defense articles” and “defense

services” in furtherance of world peace, security and foreign policy interests of the United States. The articles and services so designated constitute the U.S. Munitions List (“USML”), which is published at Title 22, Code of Federal Regulations, Section 121. The AECA gives to the Secretary of State the responsibility and authority to issue export licenses or other written approval for the export of defense articles and services. The President has delegated to the Department of State (“DOS”) the authority to designate defense articles and defense services, and to issue regulations governing the licensing of designated materials.

27. The DOS regulations implementing the provisions of the AECA are entitled the International Traffic in Arms Regulations (“ITAR”) and are codified at Title 22, Code of Federal Regulations, Sections 120 through 130 (Subchapter M). The ITAR provides that individuals or entities seeking to export defense articles or services listed in the USML must first register with and obtain an export license from the DOS Directorate of Defense Trade Controls (“DDTC”). The ITAR identified by category the defense-related articles and services that are covered by the USML, and establishes the requirements and procedures for registering with and obtaining a license from DDTC for the export of any such materials. Among other requirements, the ITAR requires an applicant for an export license to identify the ultimate and final destination of the goods or services.

28. Category I of the USML covers several classifications of firearms, including non-automatic and semi-automatic firearms up to .50 caliber. Firearms covered by Category I of the USML are defense articles that cannot be exported from the United States without a license issued by the DDTC.

IV. SABRE DEFENCE INDUSTRIES

29. SABRE DEFENCE INDUSTRIES, LLC (“SDI-US”) is a federally licensed Manufacturer and Importer of firearms and firearms components located in the Middle District of Tennessee at 450 Allied Drive in Nashville, Tennessee. SDI-US manufactures assault type rifles in a variety of models, to address tactical, precision and competition applications; in a variety of calibers, to include .223 Remington, 5.56mm and 6.5mm Grendel; and in a variety of configurations, to include semi-automatic, full auto and three round burst. SDI-US markets its rifles to the military, law enforcement agencies, foreign allies and civilians. The civilian version of the rifles are marketed as the “XR-15”. SDI-US also markets the barrels and components used in the manufacture of its rifles, such as lower receivers, upper receiver assemblies and flash hiders to other manufacturers and the public. The United States Government is SDI-US’ largest customer. SDI-US has an estimated seventy-four million dollars in contracts from the Department of Defense (“DOD”) for the manufacture of, among other things, M16 rifles. SDI-US also manufactures the barrels used by the military in the .50 caliber machine gun and the 7.62mm mini-gun.

30. According to the Tennessee Secretary of State, SDI-US was formed into a Limited Liability Company on August 16, 2002 and is owned by Sabre Defence Holdings. Guy SAVAGE (“SAVAGE”) owns Sabre Defence Holdings. SAVAGE is the Chief Executive Officer (“CEO”) of SDI-US. SDI-US maintains a sister company, SABRE DEFENCE INDUSTRIES, LTD, located at Sabre House, Belvue Road in Northolt, Middlesex in the United Kingdom (“SDI-UK”). SAVAGE is the CEO and owner of SDI-UK.

31. A check of SAVAGE’s criminal history revealed that he had multiple firearms related convictions in the Knightsbridge Crown Court in the United Kingdom in 1995. SAVAGE was

convicted of three counts of transferring a prohibited automatic weapon and received a conditional discharge of two years. He was also convicted of two counts of possessing prohibited weapons and received a conditional discharge of two years. He was also convicted of one count of failing to comply with conditions of registration as a firearms dealer and fined. He was also convicted of one count of failing to comply with conditions of a firearm certificate and fined. Finally, he was convicted of one count of omitting entry in registration as a firearms dealer and fined.

V. THERE IS PROBABLE CAUSE TO BELIEVE THAT SDI-US EMPLOYEES ARE ENGAGED IN FIREARMS TRAFFICKING, SDI-US MANAGEMENT AND EMPLOYEES ARE ENGAGED IN THE ILLEGAL IMPORTATION AND EXPORTATION OF FIREARMS AND/OR FIREARMS COMPONENTS, AND SDI-US MAINTAINS RECORDS RELATED TO THOSE ACTIVITIES

32. On February 9, 2010, the ATF submitted an application to this Court for a warrant to search SDI-US for evidence, fruits and/or instrumentalities of the offenses described above. This Court granted that application on February 11, 2010. The affidavit submitted in support of the search warrant for SDI-US is attached to this application as Attachment D and is fully incorporated herein.¹

As explained in Attachment D, and as this Court already found, there is probable cause to believe that SDI-US employees are engaged in firearms trafficking. More specifically, and as discussed in Attachment D, the ATF recovered fifty-four completed rifles and/or lower receivers during the investigation of SDI-US employee CHARLES KERR's ("KERR") trafficking activities. KERR confessed to engaging in firearms trafficking and implicated other SDI-US employees in the same activity.

¹Your affiant was involved in the preparation and review of the affidavit submitted in support of the search warrant for SDI-US. Your affiant was also present for the signing of the warrant. Your affiant adopts all the statements contained in the affidavit.

33. As further discussed in Attachment D, and as this Court already found, there is probable cause to believe that SDI-US management and employees are engaged in the illegal importation and exportation of firearms and/or firearms components. United States Immigration and Customs Enforcement (“ICE”) seized an illegal export shipment from SDI-US on November 24, 2008. It was mislabeled and misclassified. ICE identified other export shipments from SDI-US that used the same or similar mislabeling. ICE also seized an illegal import shipment that same day from SDI-UK. It had also been mislabeled and misclassified. ARNOLD SEE (“SEE”) of purchasing and shipping at SDI-US confessed to his role in mislabeling and misclassifying the seized export shipment. He also confessed to having done the same thing on other occasions. Other members of management and employees at SDI-US incriminated themselves or made contradictory statements that lacked credibility and appeared to be designed to mislead agents. Retrieved e-mails covering the time period from December of 2003 to February of 2008 confirmed that SDI-US management and employees were engaging in illegal importing and exporting of firearms and firearms components, to include suppressors. There came a time at SDI-US, that although they were sending out export shipments to SDI-UK, no one was even attempting to obtain the proper export licenses from the DOS. Some of those shipments ultimately made their way to the Middle East by way of SDI-UK.

34. As further discussed in Attachment D, and as this Court already found, probable cause exists to believe that SDI-US maintains records related to those activities. SDI-US generated the Purchase Order Summary and Acquisition & Disposition records used in the investigation of KERR. The existence of records was confirmed during the 2007 and 2009 inspections by ATF. The Shipper’s Letter of Instructions, packing slip and invoice for the seized export shipment were generated by SDI-US. The e-mail correspondence related to that seized shipment and the seized

import shipment were generated by SDI-US employees. The retrieved e-mails that confirmed that SDI-US management and employees were engaging in illegal importing and exporting of firearms and firearms components came from SDI-US. Those same e-mails confirmed the existence of “phony shipping documents” and invoices from “fairy land”. SDI-US maintains an “official” and “unofficial” set of business records and they use the E2 Tracking System to process orders and track inventory.

**VI. THERE IS PROBABLE CAUSE TO BELIEVE THAT
THE EVIDENCE SOUGHT WILL BE FOUND AT
THE TARGET PREMISES**

35. After submitting the application for the warrant to search SDI-US to this Court, and in preparation for the execution of that search warrant, the ATF conducted physical surveillance in the vicinity of SDI-US on February 10, 2010. The purpose of the surveillance was to gather additional information regarding SDI-US operating schedules, employee routines, and business practices. However, during the course of that physical surveillance, agents discovered an off-site storage facility utilized by SDI-US, now identified as the SABRE DEFENCE INDUSTRIES, LLC WAREHOUSE, located at 447 Atlas Drive in Nashville, Tennessee (“TARGET PREMISES”).

36. On that date, at approximately 6:35 a.m., your affiant observed a passenger van park beside a loading dock doorway located on the east side of SDI-US. The van displayed Tennessee registration “075MGH”. A records check revealed that the van was registered to BRIAN LONEY (“LONEY”), an employee at SDI-US. The driver exited the van and loaded a quantity of unidentified items into the van. The driver then re-entered the van and drove away from SDI-US. Your affiant followed the van as it traveled approximately two tenths of a mile to the TARGET PREMISES, which is a warehouse located at 447 Atlas Drive in Nashville, Tennessee. The exterior of the

TARGET PREMISES does not contain any signs or markings to indicate the business that owns or occupies the warehouse.

37. Your affiant then observed the driver park the van in front of the TARGET PREMISES and enter the TARGET PREMISES through an access door at the front of the building. A short time later, the driver returned to the van and drove away from the TARGET PREMISES. Your affiant followed the van as it traveled back to SDI-US. Your affiant observed the driver park the van at SDI-US and re-enter SDI-US through an employee access door located on the east side of the building.

38. The ATF and ICE were unaware of the existence of the TARGET PREMISES prior to that day. The ATF returned to the TARGET PREMISES at approximately 8:00 p.m. that evening to conduct further physical surveillance to confirm that SDI-US is utilizing the warehouse. Agents approached the TARGET PREMISES and knocked on one of the entry doors on the front of the TARGET PREMISES. No one answered the knock and there appeared to be no employees at the TARGET PREMISES. However, agents were able to observe some of the materials inside the TARGET PREMISES through windows located on the front of the TARGET PREMISES. Agents observed numerous cardboard boxes with documents attached by tape to the sides. Some of the boxes were stacked on wooden pallets and others were stacked onto industrial style shelving. Agents observed a small office area located immediately inside one of the entry doors on the front of the TARGET PREMISES.

39. Your affiant made contact with an employee at a neighboring building. The employee advised that the building belonged to "Sabre Industries" and the employee advised that SDI-US was located a short distance away and pointed in the direction of SDI-US. A check of the records

maintained by the Nashville Electric Service (“NES”) confirmed that the utilities for the TARGET PREMISES are listed in the name of SDI-US. The general telephone number for SDI-US was also provided as a contact number to NES.

40. Agents returned to the TARGET PREMISES on February 11, 2010 to conduct further physical surveillance of SDI-US employees at the warehouse. At approximately 8:10 a.m., your affiant observed a truck drive up to the TARGET PREMISES. There was a “Sabre” sticker on the rear window of the truck. The truck displayed Tennessee registration “556JBB”. A records check revealed that the truck was registered to DANIEL BRAZELTON (“BRAZELTON”), an employee at SDI-US.

41. Your affiant observed the driver enter the TARGET PREMISES through an entry door on the front of the TARGET PREMISES while carrying paperwork. Your affiant maintained physical surveillance of the TARGET PREMISES and observed the driver enter and exit his truck on more than a dozen occasions, each time carrying cardboard boxes out of the TARGET PREMISES and loading them into the bed of the truck. Once loaded, the driver drove the truck away from the TARGET PREMISES. Your affiant then followed the truck back to SDI-US. The truck came to a stop on the west side of SDI-US. Your affiant then observed the driver unload one of the cardboard boxes and carry it inside the facility. Your affiant terminated physical surveillance at that time to avoid being detected.

42. Earlier this morning, on February 17, 2010, your affiant and agents from the ATF, ICE and the Internal Revenue Service, as well as ATF Industry Operations Inspections Investigators, an ATF Asset Recovery Team, an ATF Digital Evidence Recovery Team, a representative of ATF’s Firearms Technology Branch, agents from the Department of Defense’s Criminal Investigative

Service, and members of the Metropolitan Nashville Police Department executed the search warrant for SDI-US. During the course of that execution, your affiant interviewed LONEY and BRAZELTON about the TARGET PREMISES. BRAZELTON confirmed that he works at SDI-US, that the TARGET PREMISES belongs to SDI-US, and that SDI-US stores overflow inventory at the TARGET PREMISES. BRAZELTON explained that he goes over to the TARGET PREMISES on a regular basis while working for SDI-US to retrieve inventory and take it back to SDI-US. BRAZELTON confirmed that there is an office within the TARGET PREMISES and explained that he has observed boxes marked "Sabre" and containing files in the office area of the TARGET PREMISES.

43. LONEY confirmed that he works at SDI-US as a shift supervisor, that the TARGET PREMISES belongs to SDI-US, that SDI-US obtained the TARGET PREMISES in the summer of 2009, and that they store overflow inventory at the TARGET PREMISES. LONEY explained that SDI-US employees go over to the TARGET PREMISES on a daily basis to retrieve inventory and take it back to SDI-US. LONEY explained that he himself often drives a forklift from SDI-US to the TARGET PREMISES to retrieve inventory and drive it back to SDI-US. LONEY also explained that some shipments to SDI-US are off loaded at the TARGET PREMISES and broken down. LONEY confirmed that there are shipping documents in the TARGET PREMISES. LONEY also confirmed that there is an office within the TARGET PREMISES.

44. Probable cause exists to believe that the evidence sought will be found at the TARGET PREMISES. As discussed above, SDI-US is a federally licensed Manufacturer and Importer of firearms. In my experience, such manufacturers and importers are going to maintain the records that are sought by the search warrant. Those records include:

A. Any and all files, contracts and agreements, quotations, purchase orders, invoices, purchase order summaries, and acquisition and disposition records related to the sale or other disposition of firearms and/or firearms components to employees of SDI-US;

B. Any and all files, contracts and agreements, subcontracts, quotations, purchase orders, invoices, packing lists, bills of lading, air waybills, Shipper's Letters of Instruction, Shipper's Export Declarations, and other shipping documentation, related to the sale or other disposition and shipment of firearms and firearms components by SDI-US to parties located outside of the United States;

C. Any and all files, contracts and agreements, subcontracts, quotations, purchase orders, invoices, packing lists, bills of lading, air waybills, Shipper's Letters of Instruction, Shipper's Export Declarations, and other shipping documentation, related to the sale or other disposition and shipment of firearms and firearms components to SDI-US by parties located outside of the United States;

D. Any and all export and import license applications, commodity classification requests, and supporting documentation concerning the completed or contemplated transactions set forth in A, B or C;

E. Any and all facsimile communications, electronic mail ("e-mail") communications, correspondence, telephone messages, calendars, sale acknowledgments, technical specifications, internal memoranda, notes from meetings and conversations concerning the completed or contemplated transactions set forth in A, B or C;

F. Any and all facsimile communications, electronic mail ("e-mail") communications, and other correspondence with any employees of companies or

governments located abroad concerning the completed or contemplated transactions set forth in A, B or C;

G. Letters of credit, bank drafts and other records of payment concerning the completed or contemplated transactions set forth in A, B or C;

H. Books of original entry, including but not limited to, general, cash receipts, sales, cash disbursements, purchases, payroll and other journals concerning the completed or contemplated transactions set forth in A, B or C;

I. General accounts, accounts receivable, accounts payable, and other ledgers of account concerning the completed or contemplated transactions set forth in A, B or C;

J. Bank records such as statements, check stubs and registers, canceled checks, deposit tickets, debit memos, wire transfer documents, certified check memos, and official cashier's checks memos concerning the completed or contemplated transactions set forth in A, B or C;

K. Tax records concerning the completed or contemplated transactions set forth in A, B or C; and

L. Inventory records, including supporting documents and work sheets concerning the completed or contemplated transactions set forth in A, B or C as required by law and otherwise maintained.

45. In my experience, the records sought typically contain information pertaining to the importation and exportation of firearms and firearms components as well as the disposition of firearms and firearms components to employees. Your affiant knows from training and experience that businesses such as SDI-US routinely maintain records related to the transfer of firearms and

firearms components, the acquisition and disposition records related to firearms and firearms components, firearms transaction records, and shipping documents to and/or from other firearms manufacturers, wholesalers and distributors. Your affiant knows from consultation with ICE agents that export sales are subject to regulation by the DOS and businesses such as SDI-US routinely maintain records related to the sale, the fact that the sale occurred, the details of the sale, the identity and location of the foreign purchaser, and the extent of the shipper's disclosure of information required by DOS, commercial shipping companies, and other government agencies.

46. Your affiant knows from training and experience and consultation with ICE that businesses engaged in export sales typically create or receive items such as export documents (electronic and paper), and maintain such items at their place of business. In addition, under the Export Arms Regulations ("EAR"), exporters are required to maintain, for a period of five years from the date of export, all documents related to export transactions, including formal export control documents such as Shipper's Export Declarations or Shipper's Letters of Instruction and Air Waybills or Bills of Lading, along with memoranda, notes, correspondence, contracts, invitations to bid and financial records. Many of the types of documents set forth in Attachment B are the type an exporter such as SDI-US are required to maintain under the EAR.

47. In your affiant's training and experience, businesses such as SDI-US are going to maintain the records set forth in Attachment B in locations where they can exercise full control over them and can access them quickly. Very often that will be at their primary place of business and any nearby off-site storage facilities. As discussed in Attachment D, the investigation to date has revealed that there is probable cause to believe that the documents sought are located at SDI-US. Additionally, the continuing investigation has revealed that there is probable cause to believe that the

documents sought are also located at the TARGET PREMISES, which is the only nearby off-site storage facility for SDI-US that is known to exist. Agents observed multiple SDI-US employees utilizing the TARGET PREMISES during the work day. Those SDI-US employees, when interviewed, confirmed that the TARGET PREMISES belongs to SDI-US and that they store overflow inventory at the TARGET PREMISES. One SDI-US employee, when interviewed, also explained that some shipments to SDI-US are off loaded at the TARGET PREMISES. Agents observed numerous boxes stacked inside the TARGET PREMISES. Agents were able to observe documents attached to the side of some of the boxes. An agent observed an SDI-US employee take paperwork into the TARGET PREMISES and then remove boxes from the TARGET PREMISES and transport them to SDI-US. One SDI-US employee, when interviewed, confirmed that there are shipping documents in the TARGET PREMISES. Finally, agents observed that there is an office area within the TARGET PREMISES. Both employees, when interviewed, confirmed that there is an office area within the TARGET PREMISES. One employee, when interviewed, confirmed that there are boxes marked "Sabre" and containing files in the office area in the TARGET PREMISES. Clearly, SDI-US maintains and is utilizing the TARGET PREMISES, is storing property related to its business activities in the TARGET PREMISES, and records related to those activities are located within the TARGET PREMISES.

VII. PROCEDURES FOR SEARCHING COMPUTERS

48. Your affiant knows from training and experience that many of the categories of documents set forth in Attachment B are typically maintained on computers. In addition, as previously observed by ICE agents, computers are located in the offices of SDI-US. The presence of the computers are further verified as the company maintains a website, has employees that use email,

regulates inventory and business activity via a computer tracking database, and generates documents your affiant reviewed that appear to have been generated by a computer. Your affiant observed a small office area within the TARGET PREMISES and additional SDI-US computers may be located in the TARGET PREMISES.

49. Unless otherwise specifically indicated, the term "computer" refers to the box that houses the central processing unit ("CPU"), along with any internal storage devices (such as internal hard drives) and internal communications devices (such as internal modems capable of sending/receiving electronic mail or fax cards) along with any other hardware stored or housed internally. Thus, "computer" refers to hardware, software and data contained in the main unit. Printers, external modems (attached by cable to the main unit), monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as one package, the term "computer system" is used.

50. "Information" refers to all the information on a computer system, including both software applications and data. The term "computer hardware" refers to all equipment which can collect, analyze, create, display, convert, store, conceal, or transmit electronic, magnetic, optical, or similar computer impulses or data. Hardware includes, but is not limited to, any data-processing devices (such as central processing units, memory typewriters, and self-contained laptop or "notebook" computers); internal and peripheral storage devices, transistor-like binary devices, and other memory storage devices, peripheral input/output devices (such as keyboards, printers, scanners, plotters, video display monitors, and optical readers); and related communications devices (such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers,

automatic dialers, speed dialers, programmable telephone dialing or signaling devices, and electronic tone-generating devices); as well as any devices, mechanisms, or parts that can be used to restrict access to computer hardware (such as physical keys and locks).

51. The term “computer software” refers to digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical, or other digital form. It commonly includes programs to run operating systems, applications (such as word-processing, graphics, or spreadsheet programs), utilities, compilers, interpreters, and communications programs. “Computer documentation” consists of written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software, or other related items.

52. The terms “records,” “documents,” and “materials” include all of the foregoing items of evidence in whatever form and by whatever means such records, documents, or materials, their drafts, or their modifications may have been created or stored, including (but not limited to) any handmade form (such as writing, drawing, painting, with any implement on any surface, directly or indirectly); any mechanical form (such as phonograph records, printing, or typing); any electrical, electronic, or magnetic form (such as tape recordings, cassettes, compact discs, or any information on an electronic or magnetic storage device, such as floppy diskettes, hard disks, backup tapes, CD-ROMs, optical discs, printer buffers, smart cards, memory calculators, electronic dialers, Bernoulli drives, or electronic notebooks, as well as printouts or readouts from or on external media), as well as all related instruction manuals or other documentation and data security devices.

53. Based upon training, experience and information from others involved in the forensic examination of computers, specifically the ATF Digital Evidence Recovery Team, your affiant

knows that computer data can be stored on a variety of systems and storage devices including hard disk drives, floppy disks, compact disks, magnetic tapes and memory chips. I also know that during the search of the premises it is not always possible to search computer equipment and storage devices for data for a number of reasons, including the following:

A. Searching computer systems is a highly technical process which requires specific expertise and specialized equipment. There are so many types of computer hardware and software in use today that it is impossible to bring to the search site all of the necessary technical manuals and specialized equipment necessary to conduct a thorough search. In addition, it may also be necessary to consult with computer personnel who have specific expertise in the type of computer, software application or operating system that is being searched;

B. Searching computer systems requires the use of precise, scientific procedures which are designed to maintain the integrity of the evidence and to recover "hidden," erased, compressed, encrypted or password-protected data. Computer hardware and storage devices may contain "booby traps" that destroy or alter data if certain procedures are not scrupulously followed. Since computer data is particularly vulnerable to inadvertent or intentional modification or destruction, a controlled environment, such as a law enforcement laboratory, is essential to conducting a complete and accurate analysis of the equipment and storage devices from which the data will be extracted;

C. The volume of data stored on many computer systems and storage devices will typically be so large that it will be highly impractical to search for data during the execution of the physical search of the premises. A single megabyte of storage space is the

equivalent of 500 double-spaced pages of text. A single gigabyte of storage space, or 1,000 megabytes, is the equivalent of 500,000 double-spaced pages of text. Storage devices capable of storing fifteen gigabytes of data are now commonplace in desktop computers. Consequently, each non-networked, desktop computer found during a search can easily contain the equivalent of 7.5 million pages of data, which, if printed out, would completely fill a 10' x 12' x 10' room to the ceiling; and

D. Computer users can attempt to conceal data within computer equipment and storage devices through a number of methods, including the use of innocuous or misleading file names and extensions. For example, files bearing names with the extension “jpg” often are image files; however, a user can easily change the extension to “.txt” to conceal the image and make it appear that the file contains text. Computer users can also attempt to conceal data by using encryption, which means that a password or device, such as a “dongle” or “keycard,” is necessary to decrypt the data into readable form. In addition, computer users can conceal data within another seemingly unrelated and innocuous file in a process called “steganography.” For example, by using steganography a computer user can conceal text in an image file which cannot be viewed when the image file is opened. Therefore, a substantial amount of time is necessary to extract and sort through data that is concealed or encrypted to determine whether it is evidence, contraband or instrumentalities of a crime.

54. In searching for data capable of being read, stored or interpreted by a computer, law enforcement personnel executing this search warrant will employ the following procedures:

A. Upon securing the premises, law enforcement personnel trained in searching and seizing computer data (the “computer personnel”) will make an initial review of any

computer equipment and storage devices to determine whether these items can be searched on-site in a reasonable amount of time and without jeopardizing the ability to preserve the data;

B. If the computer equipment and storage devices cannot be searched on-site, and it has been determined that the items are not instrumentalities or fruits of the offenses stated above, do not contain contraband, and are not otherwise illegally possessed, then the computer personnel will determine whether it is practical to copy the data during the execution of the search in a reasonable amount of time without jeopardizing the ability to preserve the data;

C. If the computer personnel determine it is not practical to perform an on-site search or make an on-site copy of the data, then the computer equipment and storage devices will be seized and transported to an appropriate law enforcement laboratory for review. The computer equipment and storage devices will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized set forth herein;

D. If law enforcement personnel determine, either on-site or during a subsequent off-site search, that any computer equipment, storage device or data (1) is an instrumentality of the offense stated above, meaning that it was designed or intended for the use of, or is being or has been used, as the means of committing the offense; (2) contains any contraband, such as counterfeit or stolen software, child pornography, national security information, or unauthorized access devices such as stolen credit card numbers; (3) is the fruits of criminal activity; or (4) is otherwise criminally possessed, the property shall be seized and not

returned pursuant to Federal Rule of Criminal Procedure 41 (b);

E. Any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offense, (2) a fruit of the criminal activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the offense specified above;

F. In searching the data, the computer personnel may examine all of the data contained in the computer equipment and storage devices to view their precise contents and determine whether the data falls within the items to be seized as set forth herein. In addition, the computer personnel may search for and attempt to recover “deleted,” “hidden,” or encrypted data to determine whether the data falls within the list of items to be seized as set forth herein; and

G. If the computer personnel determine that the computer equipment and storage devices are no longer necessary to retrieve and preserve the data, and the items are not subject to seizure pursuant to Federal Rule of Criminal Procedure 41(b), the government will return these items within a reasonable period of time not to exceed (10) days from the date of seizure.

55. In order to search for data that is capable of being read or interpreted by a computer, law enforcement personnel will need to seize and search the following items, subject to the procedures set forth above:

A. Any computer equipment and storage device capable of being used to commit, further or store evidence of crimes of the type characterized by the federal offenses listed above;

B. Any computer equipment used to facilitate the transmission, creation, display, encoding or storage of data, including word processing equipment, modems, docking stations, monitors, printers, plotters, encryption devices, and optical scanners;

C. Any magnetic, electronic or optical storage device capable of storing data, such as floppy disks, hard disks, tapes, CD-ROMs, CD-R, CD-RWs, DVDs, optical disks, printer or memory buffers, smart cards, PC cards, memory calculators, electronic dialers, electronic notebooks, and personal digital assistants;

D. Any documentation, operating logs and reference manuals regarding the operation of the computer equipment, storage devices or software;

E. Any applications, utility programs, compilers, interpreters, and other software used to facilitate direct or indirect communication with the computer hardware, storage devices or data to be searched;

F. Any physical keys, encryption devices, dongles and similar physical items that are necessary to gain access to the computer equipment, storage devices or data; and

G. Any passwords, password files, test keys, encryption codes or other information necessary to access the computer equipment, storage devices or data.

VIII. CONCLUSION

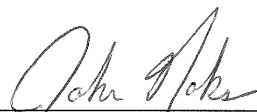
56. Based on the information contained herein, your affiant believes that probable cause exists to believe that the evidence and/or the instrumentalities of criminal activities as detailed before in this affidavit will be found at the TARGET PREMISES. More specifically, based on my knowledge, experience and the results of the joint investigation by the ATF and ICE, there is probable cause to believe that the items listed in Attachment B to the Search Warrant will be found

at the TARGET PREMISES. Therefore, based on my knowledge, training, experience and the results of the investigation presented in this affidavit, I believe that evidence and property designed for use, intended for use, and used in committing the criminal offenses described herein, are being concealed at the TARGET PREMISES.

57. I therefore request that a Search Warrant be issued for the TARGET PREMISES (including any attachments, outbuildings, appurtenances thereto and vehicles upon the property), property constituting evidence of the commission of criminal offenses and fruits, instrumentalities and otherwise evidence and property designed to commit such offenses.

58. Procedures will be undertaken to minimize any disruption of SDI-US business including the utilization of the ATF Digital Evidence Recovery Team, a specialized computer forensic team trained to examine large computer systems in an efficient and effective manner. Additionally, the ATF administered operation will conduct a continuous search and/or seizure operation, once initiated, twenty-four hours a day until completed. If necessary, representatives of SDI-US will have access to the documents and records as needed, under Government supervision, while they are being copied.

59. Given the confidential nature of the ongoing investigation, your affiant respectfully requests that this affidavit, and the application to which it is attached, be maintained under seal until this Court orders otherwise.



John Nokes
Special Agent
Bureau of Alcohol, Tobacco Firearms and
Explosives – Nashville Field Division

Sworn to before me this 17th day of February, 2010



E. Clifton Knowles
United States Magistrate Judge

Attachment D

**AFFIDAVIT SUBMITTED IN SUPPORT OF SEARCH
WARRANT FOR SDI-US AT 450 ALLIED DRIVE IN
NASHVILLE, TENNESSEE 37211**

ATTACHMENT C

AFFIDAVIT FOR SEARCH WARRANT

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I, Shawn Morrow, being first duly sworn, depose and state as follows:

I. TARGET PREMISES AND ITEMS TO BE SEIZED

1. This affidavit is being submitted in support of an application for a warrant to search SABRE DEFENCE INDUSTRIES, LLC, located at 450 Allied Drive in Nashville, Tennessee ("TARGET PREMISES"), as described more particularly in Attachment A to the Application, for the items set forth in Attachment B to the Application. Attachments A and B are incorporated herein by reference as if fully set forth herein. I believe that there is probable cause to believe that the items set forth in Attachment B will be found in the premises described in Attachment A for the reasons set forth below.

2. This affidavit is being submitted for the limited purpose of obtaining a search warrant. I am setting forth only those facts and circumstances that I believe are necessary to establish probable cause for the issuance of the requested search warrant. Unless otherwise indicated, all written and oral statements referred to herein are set forth in substance and in part, rather than verbatim.

II. BACKGROUND OF AFFIANT

3. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") and have been so employed for approximately five years. As an ATF agent, I have completed training in the field of criminal investigation through the Criminal Investigator Training Program at the Federal Law Enforcement Training Center and have completed specialized training in the fields of firearms, explosives and arson, and the Federal laws and regulations pertaining thereto, through the ATF National Academy. I routinely refer to and utilize these laws and regulations during the course of my official duties.

4. I am currently assigned to the ATF Nashville Violent Crime Impact Team ("VCIT"). My duties include the investigation of violations of the federal firearms laws and regulations occurring within the Middle District of Tennessee. I have been the affiant on numerous affidavits for criminal complaints, arrest warrants and search warrants for various violations of federal laws and regulations relating to firearms, explosives and arson. I was previously employed as a Special Agent with the Tennessee Bureau of Investigation and as a uniformed police officer in a local municipality in Tennessee for a combined period of approximately seven years.

5. I am acquainted with all aspects of the investigation described below. I have personally participated in this investigation and have witnessed many of the facts and circumstances described herein. In addition, I have received information related to the investigation from other federal law enforcement officials. I also have reviewed documents obtained during the course of the investigation. The statements contained in this affidavit are based on my own observations and review of documents or reliable information provided to me by other law enforcement personnel.

III. STATUTORY BACKGROUND

6. ATF regulations require that a federally licensed firearms importer or manufacturer maintain records reflecting the acquisition and disposition of firearms manufactured or imported by the licensee. Those records must contain the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm.

7. Proper and truthful record keeping and documentation, as mandated by federal statutes and regulations, is essential to ATF to perform its functions with regard to enforcement of federal statutes and regulations concerning the sale, shipment and distribution of firearms and ATF's

assistance to state and local law enforcement. False record keeping impedes the performance of ATF's function and unduly hinders the effective administration of justice.

8. It is unlawful under federal law to conspire to impede a federal agency's performance of its function or to unduly hinder the administration of justice, falsify records, or make false statements concerning the matter under the jurisdiction of a federal agency, including the ATF.

9. Under the Gun Control Act of 1968, as amended ("GCA"), the term firearm means the following: "(A) any weapon (including a starter gun), which will, or is designed to or may readily be converted to expel a projectile by action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer." 18 U.S.C. § 921(a)(3).

10. Title 18, United States Code, Section 922(k) states, "it shall be unlawful for any person to knowingly ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, altered and has, at any time, been shipped or transported in interstate or foreign commerce."

11. The GCA restricts the importation of firearms into the United States. The GCA directs the Attorney General to authorize the importation of any firearm that is of a type that does not fall within the definition of a firearm as defined in 26 U.S.C. §5845 (a short barreled shotgun or rifle, machine gun, silencer or any other weapon) and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms.

12. A silencer falls within the definition of Title 26, United States Code, Section 5845(a) and is defined as, "any device for silencing, muffling, or diminishing the report of a portable firearm,

including any combination of parts, designed to or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in assembly or fabrication". Title 18, United States Code, Section 925(d)(3) does not authorize the importation of silencers.

13. Title 18, United States Code, Section 922(a)(6) makes it unlawful "for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to knowingly make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious or misrepresented identification intended to or likely to deceive such importer, manufacturer dealer, or collector with the respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition."

14. Title 18, United States Code, Section 922(m) states that it shall be "unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to knowingly make false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to 18 U.S.C. § 923 (Licensing)."

15. Title 18, United States Code, Section 924(a)(1) makes it unlawful to "knowingly makes false statements or representation with respect to information required to be kept in the records of a person licensed under this chapter."

16. Title 18, United States Code, Section 925(d)(3) further provides that "in any case where the Attorney General has not authorized the importation of a firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such a firearm which would be prohibited if assembled."

17. ATF regulations require licensed importers to submit an ATF Form 6, Application and Permit for Importation of Firearms, Ammunition and Implements of War, prior to importing firearms into the United States. Upon approval of the application, the firearms may be imported.

18. When an ATF Form 6 application is approved, upon release of the imported firearms from U.S. Customs, an ATF Form 6A is required to be submitted to ATF identifying the serial numbers of the firearms that were imported. The licensed importer has fifteen days to affix a serial number to the imported firearm if it does not bear a serial number unique to the licensed importer. The importer is then required to submit the Form 6A to ATF with the affixed serial numbers identifying the imported firearm.

19. Title 18, United States Code, Section 922(a)(1)(a) makes it unlawful for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm in interstate commerce.

20. Title 18, United States Code, Section 371 makes it unlawful for two or more persons to conspire to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose.

21. Title 18, United States Code, Section 1001 makes it unlawful for persons in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, to knowingly and willfully falsify, conceal, or cover up by any trick, scheme, or device a material fact; or make any materially false, fictitious, or fraudulent statement or representation; or make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

22. Title 18, United States Code, Section 541 makes it unlawful for persons to knowingly effect any entry of goods, wares, or merchandise, at less than the true weight or measure thereof, or upon false classification as to quality or value, or by payment of less than the amount of duty legally due.

23. Title 18, United States Code, Section 542 makes it unlawful for persons to introduce into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, whether or not the United States shall or may be deprived of any lawful duties.

24. Title 18, United States Code, Section 545 makes it unlawful for persons to fraudulently or knowingly import or bring into the United States, any merchandise contrary to law, or receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law.

25. Title 18, United States Code, Section 554 makes it unlawful for persons to fraudulently or knowingly export or send from the United States, or attempt to export or send from the United States, any merchandise, article, or object contrary to any law or regulation.

26. The Arms Export Control Act ("AECA"), as amended, and codified at Title 22, United States Code, Sections 2751 to 2799aa-2, authorizes the President to control the export and import of commodities, services and technologies designated as "defense articles" and "defense services" in furtherance of world peace, security and foreign policy interests of the United States. The articles and services so designated constitute the U.S. Munitions List ("USML"), which is

published at Title 22, Code of Federal Regulations, Section 121. The AECA gives to the Secretary of State the responsibility and authority to issue export licenses or other written approval for the export of defense articles and services. The President has delegated to the Department of State (“DOS”) the authority to designate defense articles and defense services, and to issue regulations governing the licensing of designated materials.

27. The DOS regulations implementing the provisions of the AECA are entitled the International Traffic in Arms Regulations (“ITAR”) and are codified at Title 22, Code of Federal Regulations, Sections 120 through 130 (Subchapter M). The ITAR provides that individuals or entities seeking to export defense articles or services listed in the USML must first register with and obtain an export license from the DOS Directorate of Defense Trade Controls (“DDTC”). The ITAR identified by category the defense-related articles and services that are covered by the USML, and establishes the requirements and procedures for registering with and obtaining a license from DDTC for the export of any such materials. Among other requirements, the ITAR requires an applicant for an export license to identify the ultimate and final destination of the goods or services.

28. Category I of the USML covers several classifications of firearms, including non-automatic and semi-automatic firearms up to .50 caliber. Firearms covered by Category I of the USML are defense articles that cannot be exported from the United States without a license issued by the DDTC.

IV. SABRE DEFENCE INDUSTRIES

29. SABRE DEFENCE INDUSTRIES, (“SDI-US”) is a federally licensed Manufacturer and Importer of firearms and firearms components located in the Middle District of Tennessee at 450 Allied Drive in Nashville, Tennessee (“TARGET PREMISES”). SDI-US manufactures assault type

rifles in a variety of models, to address tactical, precision and competition applications; in a variety of calibers, to include .223 Remington, 5.56mm and 6.5mm Grendel; and in a variety of configurations, to include semi-automatic, full auto and three round burst. SDI-US markets its rifles to the military, law enforcement agencies, foreign allies and civilians. The civilian version of the rifles are marketed as the "XR-15". SDI-US also markets the barrels and components used in the manufacture of its rifles, such as lower receivers, upper receiver assemblies and flash hiders to other manufacturers and the public. The United States Government is SDI-US' largest customer. SDI-US has an estimated seventy-four million dollars in contracts from the Department of Defense ("DOD") for the manufacture of, among other things, M16 rifles. SDI-US also manufactures the barrels used by the military in the .50 caliber machine gun and the 7.62mm mini-gun.

30. According to the Tennessee Secretary of State, SDI-US was formed into a Limited Liability Company on August 16, 2002 and is owned by Sabre Defence Holdings. Guy SAVAGE ("SAVAGE") owns Sabre Defence Holdings. SAVAGE is the Chief Executive Officer ("CEO") of SDI-US. SDI-US maintains a sister company, SABRE DEFENCE INDUSTRIES, LTD, located at Sabre House, Belvue Road in Northolt, Middlesex in the United Kingdom ("SDI-UK"). SAVAGE is the CEO and owner of SDI-UK.

31. A check of SAVAGE's criminal history revealed that he had multiple firearms related convictions in the Knightsbridge Crown Court in the United Kingdom in 1995. SAVAGE was convicted of three counts of transferring a prohibited automatic weapon and received a conditional discharge of two years. He was also convicted of two counts of possessing prohibited weapons and received a conditional discharge of two years. He was also convicted of one count of failing to comply with conditions of registration as a firearms dealer and fined. He was also convicted of one

count of failing to comply with conditions of a firearm certificate and fined. Finally, he was convicted of one count of omitting entry in registration as a firearms dealer and fined.

V. THERE IS PROBABLE CAUSE TO BELIEVE THAT SDI-US EMPLOYEES ARE ENGAGED IN FIREARMS TRAFFICKING, SDI-US MANAGEMENT AND EMPLOYEES ARE ENGAGED IN THE ILLEGAL IMPORTATION AND EXPORTATION OF FIREARMS AND/OR FIREARMS COMPONENTS, AND SDI-US MAINTAINS RECORDS RELATED TO THOSE ACTIVITIES

A. THE ATF INVESTIGATION BEGINS.

32. The Metropolitan Nashville Police Department ("Metro") responded to a reported residential burglary on November 17, 2009 at the residence of Rick RARDON ("RARDON") at 238 Sperry Court in Nashville, Tennessee. RARDON is an employee of SDI-US. He reportedly came home during the day and found that his residence had been ransacked and a cabinet containing multiple SDI-US weapons had been taken from the residence. The weapons included an SDI-US Model XR-15 competition rifle, an SDI-US Model M4 tactical rifle and an SDI-US Model XR-15 short-barreled rifle. The ATF attempted to assist Metro in its investigation. ATF agents met with RARDON on December 10, 2009. RARDON explained his position at SDI-US and the circumstances under which he came to have SDI-US weapons in his residence. RARDON is a salesman for SDI-US, travels the country demonstrating the weapons to customers such as law enforcement agencies, and had not yet returned them to SDI-US because he was scheduled to perform a stress test on the weapons at a range the following day.

33. ATF Agents became suspicious of RARDON's story. Agents suspected that the residence had been staged to make it look like it had been ransacked. The burglars searched through jewelry boxes, but did not take any jewelry. They also left cash and other firearms that were out in

the residence. The burglary took place in broad day light, but contractors working in the area did not see anything.

34. On December 11, 2009, your affiant received information from a Cooperating Witness ("CW1")¹ that residents of Giles County, Tennessee had purchased a number of SDI rifles from an individual who did not possess a Federal Firearms License ("FFL"). On this date, ATF agents, suspecting the weapons purchased may include those recently stolen from RARDON's residence, responded to Giles County, Tennessee and conducted a series of interviews.

35. Agents quickly determined through those interviews that numerous SDI-US XR-15 rifles and SDI-US firearms components, other than those stolen from RARDON's residence, had been sold to citizens of Giles County, Tennessee within the previous months by an SDI-US employee identified as Charles KERR ("KERR"). Most of the purchases were arranged through a Giles County resident identified as William HATFIELD ("HATFIELD").

36. ATF maintains a database of all its FFLs, known as the Federal Licensing System ("FLS"). ATF agents submitted a request to the FLS and determined that KERR and HATFIELD did not possess, nor did they previously possess, an FFL. Therefore, they were prohibited from engaging in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive, any firearm in interstate or foreign commerce, as described in Title 18, United States Code, Section 922(a)(1)(A).

37. On December 14, 2009, your affiant applied to Magistrate Judge Juliet Griffin for a warrant to search KERR's residence, located at 136 Grove Springs Road in Dickson, Tennessee and

¹ CW1 is a member of law enforcement. CW1 has been found to be reliable and credible by the agents who interviewed him/her. Those agents have found no instances where CW1 was untruthful or attempted to deceive them.

HATFIELD's residence, located at 605 Buchanan Creek Road in Pulaski, Tennessee. Both residences are located within the Middle District of Tennessee. Magistrate Judge Griffin issued warrants to search both residences.

38. On December 15, 2009, ATF VCIT executed the search warrant at KERR's residence in Dickson, Tennessee. As a result of the search warrant, agents seized twenty-one SDI-US XR-15 rifles and/or lower receivers. Additionally, agents discovered a firearm assembly room in the basement of the residence. The room contained firearms components including, but not limited to, lower receivers, upper receivers, pins and springs necessary for firearm assembly, firearm stocks, and numerous tools utilized to assemble firearms.

39. Subsequent to the search and seizure, and after waiving Miranda, KERR confirmed that he was employed at SDI-US and maintained the position of M-16 Operations Manager. KERR supervises firearms assembly technicians at SDI-US. KERR admitted that he did not possess an FFL and that he did not hold a position at SDI-US which allowed him to distribute firearms or to engage in a firearms business. KERR explained that he held a position at SDI-US which allowed him to determine if an SDI-US firearm and/or lower receiver should be removed from the production line or to determine if the firearm and/or lower receiver was not suitable for commercial sale. KERR explained that upon being removed from the production line, firearms and/or firearms components were available for purchase by SDI-US employees. As a result, KERR was able to purchase a large quantity of firearms and/or lower receivers from SDI-US. KERR further explained that employees were also able to remove parts such as pins, springs and barrels without notification to management at SDI-US due to weak inventory controls and an abundance of the parts in common areas within the

facility. KERR added that there were other employees at SDI-US that made similar purchases of SDI-US rifles and/or lower receivers and then sold them to other individuals.

40. KERR provided agents with an SDI-US Purchase Order Summary that indicated that he purchased ten lower receivers on four different occasions. KERR explained that the purchases were submitted through SDI-US management and should be recorded in the SDI-US Acquisition and Disposition (“A&D”) records book, indicating that SDI-US management was aware of the multiple purchases of the same make/model of SDI-US firearms by KERR. Your affiant knows from his training and experience that multiple purchases by an individual of the same type and model firearm are often an indication of firearms trafficking.

41. A comparison of A&D records obtained from SDI-US prior to the search warrant of KERR’s residence and the SDI-US Purchase Order Summary provided by KERR indicate a discrepancy in SDI-US records. The information provided by SDI-US directly to ATF agents prior to the December 15, 2009 search warrant indicated that KERR purchased a total of seventy-four firearms through SDI-US. The SDI-US Purchase Order Summary generated for KERR by SDI-US management indicated that he purchased seventy firearms through SDI-US. Thus, four firearms were unaccounted for on the SDI-US Purchase Order Summary.

42. On December 15, 2009, ATF VCIT also executed a search warrant at HATFIELD’s residence. As a result of the search warrant, ATF recovered five SDI-US firearms and/or lower receivers. Additionally, agents seized two upper receivers for AR15 style rifles, five AR15 magazines, and various rifle components. HATFIELD admitted, post Miranda, that the seized SDI-US firearms and SDI-US firearms components were provided by KERR and had been obtained at the TARGET PREMISES.

43. From December 15, 2009 through December 30, 2009, ATF agents conducted interviews of additional customers of KERR and HATFIELD and seized the SDI-US weapons they purchased. To date, ATF agents recovered fifty-four SDI-US firearms and/or lower receivers. Of those, forty-nine were documented in the A&D records provided by SDI-US. Twenty-five of the firearms in those records remain unaccounted for.

B. THE ATF SHIFTS THE FOCUS OF THE INVESTIGATION TO OPERATIONS OF SDI-US AT THE TARGET PREMISES.

44. As a result of the existence of extensive trafficking of SDI-US firearms within the Middle District of Tennessee and the fact that KERR admitted that other SDI-US employees were engaging in the same behavior, the ATF shifted the focus of its investigation to the operations of SDI-US at the TARGET PREMISES. Your affiant met with ATF Industry Operations Inspections (“IOI”) Investigators regarding the operations of SDI-US at the TARGET PREMISES in 2007 and 2009.

45. On September 25, 2007, ATF IOI initiated a full scope compliance inspection of SDI-US at the TARGET PREMISES. The inspection was conducted in conjunction with a full scope ATF Importer’s inspection and ATF Manufacturer’s inspection. The inspection period covered September 26, 2004 through September 25, 2007. The 2007 manufacturer’s inspection resulted in a warning letter to SDI-US and a recommendation of a recall inspection. The violations by SDI-US at the TARGET PREMISES during the 2007 manufacturer’s inspection included:

- a. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.123(a) for eight instances of failure to record the type, model, caliber or gauge, and serial

number of each complete firearm manufactured or otherwise acquired, and the date of such manufacture or other acquisition was made, not later than seven days following the date of manufacture or other acquisition, into the required records; and three instances of failure to enter the correct serial numbers of firearms into the required record;

b. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.123(b) for failure to enter the sale or other disposition of firearms, no later than 7 days following the date of such transaction, into the Disposition Record; and failure to retain a Disposition Record in the proper format prescribed;

c. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.123(d) for failure to maintain separate records of the sales or other dispositions made of firearms to non-licensees from sales made to other licensees;

d. violations of Title 18, United States Code, Section 9223(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.124(c)(1) for failure to obtain properly executed ATF Form 4473's, from non-licensees, prior to transferring firearms, to wit: there were six Form 4473's that had errors and/or omissions related to the buyer's Name, Current Residence Address, Place of Birth and/or State of residence;

e. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), Title 27, Code of Federal Regulations, Section 478.21(a), and Title 27, Code of Federal Regulations, Section 478.124(c)(3)(i) for seven instances of

failure to verify the identity of buyers by examining and/or recording, on ATF Form 4473, a valid identification document;

f. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 922(t), Title 27, Code of Federal Regulations, Section 478.21(a), and Title 27, Code of Federal Regulations, Section 478.124(c)(3)(iv) for eleven instances of failure to properly execute ATF Form 4473 by failing to record on the form the date on which the licensee contacted the Tennessee Instant Check System, as well as any response provided by the system and/or the identification number provided by the system;

g. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), Title 27, Code of Federal Regulations, Section 478.21(a), and Title 27, Code of Federal Regulations, Section 478.124(c)(5) for six instances of failure to properly execute ATF Form 4473 by not signing and/or dating the form;

h. violations of Title 18, United States Code, Section 922(t) and Title 27, Code of Federal Regulations, Section 478.102(c) for failure to contact the Tennessee Bureau of Investigation to initiate a second background check of a buyer, after the first transaction was completed;

i. violations of Title 18, United States Code, Section 922(b)(3) and Title 27, Code of Federal Regulations, Section 478.99(a) for transferring a firearm to a resident of a State other than Tennessee in violation of State law, to wit: SDI-US transferred a rifle to a resident of Illinois;

j. violations of Title 18, United States Code, Section 923(i), Title 27, Code of Federal Regulations, Section 478.92(a)(1)(i), and Title 27, Code of Federal Regulations,

Section 479.102 for four instances of failure to assign unique serial numbers to identify manufactured firearms; and

k. violations of Title 18, United States Code, Section 923(g)(1)(A), Title 18, United States Code, Section 922(m), and Title 27, Code of Federal Regulations, Section 479.103 for failure to file with the Director, or ATF, an accurate notice of ATF Form 2, Notice of Firearms Manufactured or Imported, showing the correct number of firearms and/or correct serial numbers of firearms manufactured, to wit: three machine gun receivers were re-manufactured and assigned the same serial numbers as receivers that were to be destroyed. The older receivers were manufactured on or about September 16, 2006, and were still in SDI-US' inventory at the TARGET PREMISES at the time of the 2007 inspection. The three re-manufactured receivers were exported to Taiwan in January of 2007. In addition, a silencer was manufactured with a serial number that was already assigned to a firearm. After being advised by ATF that the serial number for the silencer must not duplicate any serial number placed on another firearm, the ATF Form 2 was changed showing a different serial number on the silencer. However, the serial number actually on the silencer never changed.

46. The 2007 importer's inspection resulted in a warning letter to SDI-US and a recommendation of a recall inspection. The violations by SDI-US at the TARGET PREMISES during the 2007 importer's inspection included:

a. violations of Title 27, Code of Federal Regulations, Section 478.21(a) and Title 27, Code of Federal Regulations, Section 478.112(c) for three instances of failure to present U.S. Customs and Border Protection ("CBP") with an approved ATF Form 6,

Application and Permit for Importation of Firearms and Ammunition and Implements of War, for firearms imported;

b. violations of Title 27, Code of Federal Regulations, Section 478.21(a) and Title 27, Code of Federal Regulations, Section 478.112(c)(1) for failure to furnish the original ATF Form 6A to the Customs officer releasing the imported firearms;

c. violations of Title 27, Code of Federal Regulations, Section 478.21(a) and Title 27, Code of Federal Regulations, Section 478.112(d)(1) for failure to forward ATF Form 6A to the ATF within 15 days of importation;

d. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.1223(b) for failure to retain Disposition Record in the proper format prescribed; and

e. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.1223(d) for failure to maintain separate records of the sales and other dispositions made of firearms to non-licensees from sales made to other licensees.

47. Your affiant obtained and reviewed the ATF IOI inspection report related to the inspection of SDI-US in 2009. The inspection covered the time period of June 1, 2008 through June 9, 2009. The inspection report revealed continued violations and additional concerns about the operations of SDI-US at the TARGET PREMISES. While SDI-US employees reported that they conduct a full inventory several times per year, they had not conducted an inventory since September of 2008. The inspection also revealed that seven SDI-US firearms were missing from the SDI-US inventory and were not accounted for in the A&D records.

48. The violations of SDI-US at the TARGET PREMISES during the 2009 manufacturer's inspection included:

- a. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.123(a) – (repeat violations from the 2007 inspection) – for six instances of failure to record the type, model, caliber or gauge, and serial number of each complete firearm manufactured or otherwise acquired, and the date such manufacture or other acquisition was made, not later than seven days following manufacture or other acquisition, into the required inventory;
- b. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Section 478.123(b) – (repeat violations from the 2007 inspection) – for failure to enter the sale or other disposition of firearms, no later than seven days following the date of such transaction, into the Disposition Record, to wit: there were five hundred and ninety-eight firearms sold to other licensees and law enforcement agencies that had not been logged out of the Disposition Record that have been disposed of for more than seven days which resulted in the loss of seven firearms that were unaccounted for; and failure to accurately or completely record disposition transactions in the Disposition Record, to wit: there were nine hundred and two instances where the licensee failed to enter all required information, such as an FFL's address or license number and many of the entries contained only the date of disposition and no other information; and

c. violations of Title 18, United States Code, Section 922(m), Title 18, United States Code, Section 923(g)(1)(A), and Title 27, Code of Federal Regulations, Sections 478.123(d) and 478.125(e) for failure to enter the sale or other disposition of firearms, no later than seven days following the date of such transaction, into the Disposition Record, to wit: there were thirty-six firearms sold to non-licensees that had not been logged out of the Disposition Record that had been disposed of for more than seven days; and failure to accurately or completely record disposition transactions to non-licensees in the Disposition Record, to wit: there were four instances where SDI failed to enter all the required information, such as the name and/or address.

49. The violations of SDI-US at the TARGET PREMISES during the 2009 importer's inspection included:

a. violations of Title 18, United States Code, Section 922(m) and Title 27, Code of Federal Regulations, Section 478.112(c)(1) – (repeat violation from the 2007 inspection) – for failure to furnish original ATF Form 6A to Customs Officer releasing imported firearms, to wit: three importations entered the United States without proper/required paperwork being completed by SDI-US; and

b. violations of Title 18, United States Code, Section 922(m) and Title 27, Code of Federal Regulations, Section 478.112(d)(1) – (repeat violation from the 2007 inspection) – for failure to forward ATF Form 6A to the ATF within 15 days of importation, to wit: three importations entered the United States without the proper/required paperwork being completed by SDI-US.

C. THE ATF DISCOVERS A PARALLEL INVESTIGATION OF SDI-US AND SDI-UK BY ICE.

50. As a result of reviewing the 2007 and 2009 inspection reports, your affiant learned of an ongoing, parallel investigation into the operations of SDI-US at the TARGET PREMISES by the United States Immigration and Customs Enforcement ("ICE") in Nashville, Tennessee. ICE had been investigating import and export violations by SDI-US.

51. The ICE investigation began in November of 2007 when the DDTTC received an anonymous tip from a Cooperating Witness ("CW2")² that SDI-US was shipping M-16 parts to the United Kingdom without a proper export license and falsely describing the M-16 parts to lower declared values and to avoid United States government licensing requirements. CW2 provided specific examples of fraud committed by SDI-US. Among other things, CW2 explained that SDI-US management directed employees to describe gun barrels as axles, resulting in shipments valued at approximately \$3,000.00 to be declared as low as \$10.00.

D. SUSPICIOUS SDI-US AND SDI-UK SHIPMENTS ARE SEIZED IN NASHVILLE.

52. In November of 2008, ICE was notified about a suspicious shipment from SDI-US bound for Europe. Specifically, on November 21, 2008, the CBP Port Director contacted ICE and notified them that DHL delivery service in Nashville contacted CBP regarding a suspicious package from SDI-US. The information provided by DHL indicated they possessed a shipment from SDI-US

² The ongoing investigation revealed that CW2 was an employee of SDI-US at the TARGET PREMISES who left the company because of their illegal activities. The ATF made contact with CW2, interviewed him/her and has been able to corroborate much of the information he/she provided through SDI-US internal e-mails and the seizure of suspicious SDI-US and SDI-UK shipments in Nashville. CW2 has been found to be reliable and credible by the agents who interviewed him/her. Those agents have found no instances where CW2 was untruthful or attempted to deceive them.

and that they believed the merchandise was falsely manifested and destined for export to Europe. ICE Special Agent Nick Nelson coordinated with CBP to inspect the package.

53. On November 24, 2008, Agent Nelson and other ICE employees traveled to the DHL warehouse facility in Nashville. Upon arrival, they spoke with Gary Marlin, the Air export agent for DHL. Mr. Marlin advised that he was suspicious of the SDI-US package. Agent Nelson knew from his training and experience that an export license is required for items listed on the USML. The shipment was destined for SDI-UK. Byron LEE ("LEE"), SDI-US' Shipping Manager, previously described the shipment as "raw or unfinished barrels." Agent Nelson knew that a shipment of barrels would require an export license. Mr. Marlin requested that LEE complete a Shippers Letter of Instruction ("SLI"), which is a form that DHL requires shippers to complete with respect to shipments overseas. Box 19 on the SLI is labeled "US Export Control" and provides several choices, including: "NLR" (No License Required), "Exception", or "License" (with space to indicate license number and expiration date). Upon being questioned by Mr. Marlin, LEE indicated that this shipment should be classified as "NLR" or no license required.

54. Mr. Marlin received the completed form via email from LEE. Mr. Marlin observed that the description of commodities section of the form listed "Alloy Steel Bars; Hydraulic connecting tubes, and middle connecting tubes." Such a shipment would not require an export license. The total value was listed as \$1,754.31. The email message from LEE also contained an SDI-US packing slip and invoice. The discrepancy between what LEE described the shipment as to Mr. Marlin and how he described the shipment on the SLI led Agent Nelson to believe that SDI-US was aware of the contents of the shipment and had deliberately changed the description that would be transmitted to the CBP to avoid the licensing requirements and increased tariffs if properly

described. That belief was corroborated by a review of the packing list that LEE e-mailed to Mr. Marlin at DHL that would accompany the shipment, but that would not have been transmitted to the CPB. The packing list stated that the shipment was bound for SDI-UK and contained "71" of "50009 Barrel Assembly, 14.5 in, 1:7, M4 Carbine, Vanadium, chrome lined, front sight, A2 flash hider, barrel extension, barrel nut assembly 5.56."

55. ICE agents inspected the shipment and observed one hundred and ninety-five bored and rifle cut unfinished barrels. Agents removed the un-finished barrels and observed two sheets of wood that overlapped and expanded to fit the dimensions at the bottom of the shipping crate, in effect creating a false floor. Agents removed the two sheets of wood and observed seventy-one finished M4 style rifle barrel assemblies including front sights, barrel nuts, some of which contained muzzle flash suppressors/hiders. They also observed two Steyr Aug rifle barrels. The evidence was seized by CBP. ICE agents obtained additional DHL documentation relating to ten other transactions with SDI-US where the description of the commodities involved included "alloy steel bars".

56. While ICE agents were inspecting the intended export, DHL received an import shipment from SDI-UK to SDI-US. Manifest information provided by SDI-UK indicated that the shipment contained two hundred machined aluminum housings and one thousand catch bolts. Agents examined the shipment and discovered it actually contained two hundred aluminum upper receivers for an M4 style rifle. CBP determined that the shipment was not legally marked and, thus, it was misclassified.

57. ICE agents obtained copies of e-mail correspondence between DHL import manager, Jackie Stewart, and Arnold SEE ("SEE") of purchasing and shipping at SDI-US. The e-mail correspondence sought the country of origin and tariff number for the shipment. SEE related, via e-

mail, that the country of origin is England and that Mr. Stewart possessed the tariff number. SDI invoice number 590 provided Tariff Number: 7616.99.5070 for the shipment. The use of Harmonized Tariff Schedule Chapter 76 as the classification number indicated that the company was classifying the items as "aluminum and articles there of" instead of Chapter 93, "Arms, Ammunition; Parts and Accessories Thereof." SEE also provided, via e-mail, tariff number 7325.10.0080 for the catch bolts. The use of Harmonized Tariff Schedule Chapter 73 as the classification number indicated the company was classifying the bolts as "other articles of iron or steel of nonmalleable cast iron" instead of Chapter 93, "Arms, Ammunition; Parts and Accessories Thereof." The evidence was also seized by the CBP.

E. ICE CONFRONTS SDI-US MANAGEMENT ABOUT THE SUSPICIOUS SHIPMENTS THAT WERE SEIZED.

58. ICE agents then confronted SDI-US management about the suspicious shipments as their investigation continued. On December 1, 2008, ICE agents interviewed SEE. During the course of the interview, SEE explained that SAVAGE owns and operates SDI-UK and owns SDI-US. SEE maintained that only raw materials and raw castings had been sent to SDI-UK. When confronted with the fact that the intercepted export shipment contained barrel blanks, rather than raw materials or raw castings, SEE could not offer a legitimate explanation as to why they were being sent to SDI-UK. SEE explained that an export license is required to export barrel blanks and that SDI-US does possess the appropriate export license. SEE maintained that if a shipment required an export license he would complete the SLI to indicate that a license was required. ICE agents confronted SEE about the seized export shipment, questioning him about the varying descriptions of the contents on the SLI, invoice and packing slip, but SEE could not explain the discrepancy.

59. SEE then confessed to altering the invoice. SEE also admitted to changing invoices one or two other times in the past, thus, sending licensable materials without the appropriate export license. SEE explained that SAVAGE was recently at SDI-US and instructed SEE to ship the unfinished barrels, the finished barrel assemblies, and a box containing unknown material (believed to be a reference to the two Steyr Aug rifle barrels) to him in the United Kingdom. SEE explained that SAVAGE instructed him to place the finished barrel assemblies beneath the unfinished barrels and to put the closed cardboard box on the top of the shipment. SEE relayed the same information to LEE for completion. The SDI-US shipping department workers carried out the orders and prepared the shipment for export. SEE admitted that he knew the finished barrels were a licensable material and that he deliberately changed the description to avoid the licensing requirement. SEE knew that DHL would not ship the material if it was licensable material and did not have an approved license.

60. ICE agents also interviewed LEE on December 1, 2008. LEE explained that it is his job to ensure that the shipments are shipped properly and he primarily coordinates international shipments. LEE explained that SDI-US sends out unfinished barrels, solid material for barrels, bored and rifle cut unfinished barrels, and unfinished upper receivers. When confronted about the contents of the seized export shipment and the varying descriptions, LEE claimed that he was unfamiliar with product information and although he normally inspects the shipments he did not inspect that particular shipment. LEE also claimed that he was unaware that there were finished barrels in the seized export shipment.

61. On December 3, 2008, ICE agents interviewed Charles SHEARON ("SHEARON"), the president of the SDI-US. SHEARON stated bluntly, "We fucked up and I don't want you to think we are criminals." SHEARON stated that the reason he agreed to meet with the agents was to

tell them “everything and be honest” to make sure the agents did not think they were “criminals”. SHEARON maintained that they were not “doing anything wrong”. SHEARON explained that SAVAGE was aware of the investigation and instructed him to apologize. SHEARON even offered to pay a fine.

62. ICE agents pressed SHEARON on the seized export shipment and SHEARON admitted that he knew the finished barrels required an export license, he knew it was a violation to ship the finished barrels without the appropriate license and that SEE could not ship the finished barrels legally without a license. SHEARON also admitted that SAVAGE requested the finished barrels and he instructed SEE to ship them to SAVAGE. SHEARON maintained that he was unaware of any other shipment of finished barrels to SAVAGE at SDI-UK.

63. ICE agents met with SEE, LEE and SHEARON at SDI-US on December 10, 2008. Each granted consent to image their computer hard drives utilized to conduct official business regarding matters related to SDI-US and SDI-UK. A Special Agent from the Tennessee Bureau of Investigation Technical Services Unit imaged each hard drive to a government owned hard drive for the purpose of reviewing e-mails and SDI-US and SDI-UK related business activity that was stored on each unit.

**F. INTERNAL E-MAILS FROM SDI-US AT THE TARGET PREMISES
CONFIRM THAT SDI-US MANAGEMENT AND EMPLOYEES ARE
ENGAGED IN ILLEGALLY IMPORTING AND EXPORTING FIREARMS
AND/OR FIREARMS COMPONENTS.**

64. Agent Nelson of ICE reviewed the imaged hard drives from SDI-US at the TARGET PREMISES and found internal e-mails that provided incriminating evidence that SDI-US and SDI-UK were illegally importing and exporting firearms and/or firearms components. Your affiant, in

preparation for the filing of this affidavit, reviewed each of the e-mail communications. The e-mails were between and among SDI-US personnel, SDI-UK personnel and their associates, including CW2, who was still an employee of SDI-US at the time.

65. On December 18, 2003 at 10:45 a.m., Elmer HILL ("HILL"), Chief Financial Officer at SDI-US, sent an e-mail to SAVAGE, with a copy sent to Garry HOGAN ("HOGAN"), Plant Manager at SDI-UK, SHEARON, SEE, and CW2. In the narrative, HILL wrote, "We need to also talk about our shipment of parts to you. We are currently 'stretching' the rules on stating the value and description of parts that we are sending you."

66. On May 24, 2004, at 3:12 p.m., SAVAGE sent an e-mail to CW2. In the narrative, SAVAGE wrote, "With regards to the last shipment, any chance you could send me some 'gear shafts' instead of the last failed attempt and did the mags go out? Assuming everything rocks, we should have the right documentation in place for next time."

67. On July 10, 2004, at 1:24 p.m., SHEARON sent an e-mail to SAVAGE. SHEARON wrote, "The 100 barrels without chambers will be ready Mon. or Tues. if we can find someone dumb enough to sign the shipping documents we will send them to you."

68. On July 24, 2004, SAVAGE sent an e-mail to HILL, with a copy sent to SHEARON, CW2, and HOGAN with the subject header: Exports. In the e-mail SAVAGE wrote, "This Iraq situation has companies banging on our door for M16s because we are the only supplier outside the US since the State Department has a lump of granite up their asses with exporting machineguns to anywhere. The situation regards what commodities they are prepared to be exported currently seems to be limited to hunting rifles and shotguns. Are these restrictions new? Yes. Are they absolute? Don't know Are they legal? I doubt it Can we possibly file the paperwork differently? Possibly I am

not of the opinion that the State Department will change its tune so it is virtually pointless even trying to get them to be reasonable. I have the TDP³ and I am damn well going to use it, I'm not prepared to have bureaucrats in another country tell me how to run my business in the UK, which is incidentally their only reliable ally on the planet."

69. On October 7, 2005, Gary HARDINGS ("HARDINGS"), of SDI-UK, sent an e-mail to CW2, HOGAN, and SHEARON. In the e-mail, HARDINGS wrote, "We are in need of some 24 blank so as and when you can get some shipped to us (cheap route) it would be appreciated."

70. On October 27, 2005 at 9:13 a.m., Peter JACKSON ("JACKSON"), an associate of SAVAGE and SDI-UK, sent an e-mail to Dale LAMBERT ("LAMBERT"), of SDI-US, and SAVAGE providing additional direction on an examination of silencers. JACKSON's response was to a previous e-mail from LAMBERT. LAMBERT wrote in the originating e-mail, "Gary called yesterday and said he was "returning :)" some "defective mufflers" And they needed to be inspected and some drawings generated on them :) What did you want from them:)"

71. On March 28, 2006, SAVAGE sent an e-mail to CW2. SAVAGE wrote, "15 compressor intake manifolds and mounting adaptors are on route to you by TNT. You should have them Thursday..."

72. On February 9, 2007, at 4:23 p.m., SHEARON sent an e-mail to SAVAGE, Hunter CUMMINGS ("CUMMINGS"), of SDI-US, and HILL with the subject header: suppressors. In the e-mail, SHEARON wrote, "I'm afraid I have bad news, our request to import suppressor castings has been flatly denied by the ATF. I just received the final word this morning after Grant called them

³ As discussed further below, SDI-US maintained a DOD contract to produce M16 rifles and other weapons parts. As a result of this DOD contract, the facility maintained a DOD Technical Data Plan or "TDP" for use in the manufacturing of the weapons to the military's specifications.

concerning the “denied” form we received yesterday. Apparently they aren’t going to allow anything in that contains the words “suppressor” or “silencer”. I was about to notify Tuukka (Ase Utra) but decided to discuss this with ya’ll first. I know the easy route is for them to ‘mis’ label the parts but I’m 99% sure they won’t do it. They have said several times they wouldn’t, I ain’t just guessing. Can they ship them to the UK? I know some fuckers over there will do just about anything.”

73. In response to the previous e-mail, on February 9, 2007, at 4:34 p.m., HILL sent an e-mail addressed to SHEARON and SAVAGE, with a copy sent to CUMMINGS, with the subject heading: suppressors. HILL wrote, “I am against trying to ‘sneak’ them in. The risk is great with our other business if we were to get caught. We could lose all the government business. How hard have we really tried to find a vendor over here? Can the lawyer that we talked to that is in Washington help us get this approved? This is not good news. This is one of our highest potential/highest profit projects that we have on the board. There has to be a way to get the parts.”

74. In response to the previous e-mail, on February 9, 2007, at 5:38 p.m., SAVAGE sent an e-mail addressed to HILL and SHEARON, with a copy sent to CUMMINGS. In the e-mail, SAVAGE wrote, “First off don’t discuss this with the Finns. I will talk to Peter about it and we will arrive at a solution.” SAVAGE continued his e-mail indicating he did not believe the suppressor castings required ATF approval despite a previous notification letter sent to SDI-US by the ATF on February 1, 2007.

75. On February 28, 2007, at 8:58 a.m., HILL sent an e-mail to SAVAGE, with a copy sent to SHEARON, with the subject header: parts. HILL wrote an e-mail in reference to attempting to gain a large line of credit. Hill wrote, “The Bankers will be in today and that will be one of their

questions. I know this may not be what you want to hear but it is the place we are at. I don't think you want to continue to put the US Plant at risk in order to keep the UK Plant in motion. Would appreciate some feedback. Quite appropriate to discuss this now. We cannot make agreements and then deviate when it becomes difficult. We are quite frankly bordering on questionable behavior both from an accounting and IRS view. The way we are getting these lines and leases are from our credibility. We are close to losing it if we can't fix these basic business issues."

76. In response to the previous e-mail from HILL, SAVAGE wrote an e-mail on February 28, 2007, at 10:58 a.m., to HILL, with a copy sent to SHEARON, with the subject header: Parts. In the e-mail, SAVAGE discussed his agreement to pay SDI-US for parts received by SDI-UK. SAVAGE wrote, "I am quite content to pay for any parts that we need that I can have an invoice for. The shipping invoices are from fairlyland, I need REAL invoices to do this."

77. On May 17, 2007 at 9:10 a.m., HILL wrote an e-mail to Mike CURLETT ("CURLETT"), Director of Sales and Marketing at SDI-US, and SHEARON, with a copy sent to SAVAGE. HILL wrote, "The true unintended consequences however is us losing our ability to bid on government contracts if they start looking into our internal transactions such as these. For example, are we 'trading at fair value' etc. One question I have is how much are the Cav Arms Plastic Lowers worth to us? This 'deal' has been buddy/buddy relationship which I hope is not what is keeping us from changing it. I have been talking this issue for three years and there always seems to be a reason we can't do it. If we want to put \$8-10 Million dollars worth of business at risk that is ok with me if that is what we want to do. I am just doing my job of raising the flag. I do not think enough people understand the requirements and obligations we have when we sign an award contract with the government. I also think some people think they know a lot more than they do about

government business. We are so open on so many fronts on the way we do business it blows my mind that at times no one seems to be concerned about it. We say we will change and we don't. Let me know what you all decide." HILL continued the e-mail about changing their order process with Cavalry Arms, and then ended the e-mail writing, "Not trying to be a bastard about this but these 'deals' could sink our ship."⁴

78. On June 19, 2007, at 2:43 p.m., David POWER ("POWER"), Business Development Manager at SDI-US, wrote an e-mail to SAVAGE, with a copy sent to CURLETT, HILL, and SHEARON with the subject header: D-Trade and UK shipments – Important!!. In the e-mail, POWER wrote that he was frustrated over receiving "Returned Without Action" notices from the DOS regarding SDI-US export license requests.

79. SAVAGE responded with an e-mail on June 20, 2007, at 4:57 p.m., to POWER, with a copy to CURLETT, HILL, and SHEARON. SAVAGE wrote, "I am incredibly frustrated by this setback because it would be largely all avoidable if the basic attention to detail and logic is applied. Combined by the assholes at the State Department who are looking for an excuse not to do their jobs, we just end up wasting time which ultimately puts Sabre UK at mortal risk." In this e-mail, SAVAGE directed POWER on how to describe the end user as requested by the DOS. SAVAGE wrote, "End Use is For further work and integration into sporting and hunting rifles for resale by duly licensed individuals for hunting and target shooting. In so far as telling the State Dept who our distributors or customers are I think might be counterproductive."

80. On July 3, 2007, at 12:19 p.m., POWER e-mailed SAVAGE, with a copy sent to

⁴ Your affiant confirmed that Cavalry Arms is under investigation by the ATF in Los Angeles for conducting business with non-licensees. Invoices obtained during that investigation revealed shipments between Cavalry Arms and SDI-US and SAVAGE.

CURLETT, HILL, and SHEARON. In the e-mail, POWER wrote, "Attached is the newest Return Without Action from the state department for the 9500 magazines." POWER continues by adding that the state department is not satisfied with SDI-US' description of the end user and wants more information regarding the ultimate destination of the 9500 ammunition magazines.

81. On August 21, 2007, at 3:13 a.m., SHEARON was the recipient of e-mail from a representative of Ase Utra, identified as Tuukka JOKINEN ("JOKINEN")⁵. The e-mail was written to SHEARON, with a copy sent to SAVAGE and JACKSON. JOKINEN wrote, "Hello, Our company owner, Mr. Hirvonen has lacked the confidence in just shipping the sound suppressor castings over to the U.S., without any paperwork involved on the U.S. end. The parts would be accompanied with a Finnish MOD export permit, which we believe would catch the eye of officials. And we were also suspicious on the offer made on the nomenclature for the parts. i.e. naming them something else than they are." JOKINEN continued the e-mail, explaining they had sought legal guidance in Finland and had even contacted the ATF Firearms Technology Branch. JOKINEN e-mailed the process for completing an ATF Form 6 and questioned why SDI-US had not contacted the ATF regarding the issue. JOKINEN wrote, "there is a clear chance that the import of these parts could be under regulation. If we would have just shipped them over, we believe that there would have been a great chance of negative complications later on."

82. On August 21, 2007, at 6:40 a.m., JACKSON responded to the Ase Utra e-mail. SAVAGE and SHEARON were copied on the response. JACKSON wrote, "Tukka, if we send you a purchase order today, will you ship these goods to us (Forge Consulted Ltd) in the United Kingdom?"

⁵ On open source internet search by your affiant indicated that Ase Utra is a manufacturer of sound suppressors

83. On August 21, 2007, at 8:45 a.m., SAVAGE responded to the two previous e-mails. The e-mail was sent to JOKINEN, SHEARON, and HILL, with a copy to JACKSON. In the e-mail, SAVAGE explained his interpretation of the Finnish law in comparison to English law and advised JOKINEN that his e-mail is suggesting SDI-US request something they do not need permission for. SAVAGE wrote, "In respect of asking BATF for permission to import baffle castings you have now interposed yourself in a fundamental misunderstanding of how laws work in the US. Consequently your recent interference will now likely threaten the future of importing any further elements from AU ever again." SAVAGE continued by writing, "BATF do operate a strict policy of denying all import license application for firearms silencers. This was the fundamental purpose of Sabre taking a US production license for your products as they are not importable to the US. What possible purpose would it serve for us to make something domestically that we could buy off the shelf? BATF hold the physical power to Proscribe or Forbid certain items, so that is exactly what they do. They do not want suppressors to be imported to the US. They consider subcomponents of suppressors in the same way as they consider the whole unit." "Upon legal advice, our whole proposition of buying raw castings was to negate the power BATF have over being able to prohibit their import as the elements need so much further work to be able to use them to manufacture a suppressor. HOWEVER, if you ask the Imports Branch to make a ruling on something which they can assume a power and then exercise a restrictive control, that is precisely what they will do."

84. On August 23, 2007, at 05:39 a.m., JOKINEN replied to SAVAGE's e-mail. SHEARON and HILL were copied on the correspondence. JOKINEN wrote a detailed message summarizing the reason for delayed Ase Utra parts, specifically due to SDI-US' failure to secure the

(silencers) and is located in the country of Finland.

proper ATF approval. JOKINEN wrote that the Finnish government granted their license to export suppressor castings to SDI-US, but that SDI-US failed to obtain the proper ATF approval for the import. JOKINEN indicated that SHEARON had traveled to Ase Utra in Finland to be trained on the manufacturing technology of the Ase Utra suppressors. He wrote, "During this time there was an urgent need for delivery of 15 CQB-QM suppressor samples for a U.S. tender. Ase Utra had the parts ready for delivery, but Charlie informed us that he would not accept the import."

85. JOKINEN wrote that SDI-US began searching for a suppressor casting supplier located in the United States, but restarted talks for Ase Utra exportation. JOKINEN wrote, "June 2007, Arnold SEE ask for an odd nomenclature for the shipped parts. (HTS code 722240, angles, shapes and sections of stainless steel) This code has nothing to do with the black steel parts and raised suspicions at Ase Utra. The parts are classified as sound suppressor baffle castings in the Finnish MOD export permit, which they really are." JOKINEN continued in the e-mail to challenge SDI-US' and SAVAGE's refusal to comply with the ATF. He wrote, "If you are so adamant that the ATF will rule them as sound suppressor baffles, why are you requesting that they be imported unauthorized. Do not kid us that we have named them provocatively, they are sound suppressor baffle castings, even though they are in raw form they only serve one purpose, the manufacture into sound suppressor baffles and into complete sound suppressors."

86. On August 23, 2007, JACKSON sent an e-mail to JOKINEN and SAVAGE, with a copy sent to SHEARON and HILL. JACKSON's e-mail repeated his previous request, "Will you send these parts to the UK?"

87. On August 24, 2007, at 7:11 a.m., SAVAGE e-mailed SHEARON and HILL with the subject header: AU Castings. SAVAGE wrote, "Apparently Peter's and my intervention on this

issue has had prompted the following result: The casting are likely to be shipped to Nashville on Tuesday!" SAVAGE continued by writing, Tukka has also said that we should be able to order further castings direct from SAKOTEC. This will be a big help and save us up front tooling costs to get this project moving."

88. On October 22, 2007, HARDINGS e-mailed CW2. HARDINGS wrote, "Inge is trying to get up to date also on the stock list trying to delete all the unnecessary part numbers which have been entered from the phony shipping documents!!!!"

89. On January 28, 2008, at 11:30 a.m., CURLETT e-mailed SAVAGE, Nancy COEHLO ("COEHLO"), Materials Manager at SDI-US, POWER, SEE, SHEARON, HILL, and HARDINGS with the subject header: Supplies to UK. CURLETT apologized to SAVAGE for not shipping parts on time as requested by SDI-UK. CURLETT wrote, "We are also shipping or have shipped upper and lower receiver forgings, barrel blanks and two of the three chrome-lined barrels you requested."

90. On February 18, 2008, at 4:07 p.m., HILL e-mailed Rodrigo GUILLEN ("GUILLEN"), of SDI-UK, and CURLETT, with a copy sent to SHEARON, COEHLO, and SAVAGE. HILL wrote, "Our problem is that everyone needs to remember that we are a US Government Contractor and these things are all watched. An example is that our current receivables with Sabre UK is \$750k+ which is understated. I am being pressured by the accountants to take these receivables as income because 90% of them are over 90days+. This could be a tax liability of \$225k+ for Guy. This is a very serious problem we are dealing with."

91. On February 18, 2008, at 6:47 p.m., HILL e-mailed SHEARON with the subject heading Uk. The e-mail was written in response to the promotion of a SDI-UK sandblaster who was promoted to SDI-UK Chief Financial Officer. HILL wrote, "Fuck you! I think this is the guy that

currently does their sandblasting. I think Guy just promoted him to Corporate CFO. The good thing is that he can go to jail instead of you.”

G. ICE CONDUCTS ADDITIONAL INTERVIEWS OF SDI-US MANAGEMENT AND EMPLOYEES ABOUT EVIDENCE THAT THEY ARE ENGAGED IN ILLEGALLY IMPORTING AND EXPORTING FIREARMS AND/OR FIREARMS COMPONENTS.

92. ICE agents interviewed William CLAYTON (“CLAYTON”), a shipping clerk at SDI-US, on March 18, 2009. Agents confronted CLAYTON about the seized export shipment. Although he does not process international shipments, CLAYTON remembered this particular shipment because he helped with it. Specifically, he was instructed to put the finished barrels underneath the barrel blanks. CLAYTON admitted that he has mislabeled barrels as “metal tubes” and completed firearms as “cases” when shipping them.

93. ICE agents interviewed Chasus JOHNSON (“JOHNSON”), a shipping clerk at SDI-US, on March 18, 2009. JOHNSON explained that he was responsible for processing international and domestic shipments. When confronted about the seized export shipment, JOHNSON initially denied packing the shipment, but then admitted to his involvement. JOHNSON explained that he put the finished barrels underneath the barrel blanks because he did not think he was supposed to ship finished barrels outside of the United States and he did not know if DHL would inspect the shipment. JOHNSON also admitted that he shipped finished barrels to SDI-UK on two other occasions. Each shipment consisted of twenty finished barrels and he mislabeled them as “barrel blanks”. JOHNSON also admitted that he has shipped barrel blanks to SDI-UK in the past.

94. ICE agents interviewed COELHO on March 19, 2009. COELHO explained that SDI-US uses the E2 Tracking System to process orders and the system is capable of tracking who entered

or edited an order, who generated a packing slip and who generated the invoice. COELHO further explained that the E2 Tracking System contains the total inventory of everything at SDI-US and can display all items processed and shipped to SDI-UK. However, COELHO admitted that physical inventories have not matched what is in the E2 Tracking System. Some items were also sent to SDI-UK without being processed in the E2 Tracking System. When confronted with the invoice and SLI for the seized export shipment, COELHO admitted that the invoice was not one that would have been generated by the E2 Tracking System.

95. ICE agents interviewed POWER on October 15, 2009 at the United States Attorney's Office. POWER explained that he was involved in pursuing permits for product transfers between SDI-US and SDI-UK. POWER had six or seven export license requests denied. The major problem was his explanation on the requests of the end user for the items they were attempting to export. SAVAGE instructed POWER to say they were going to a "duly authorized licensed user", but his request was still denied. POWER admitted that he ceased involvement in pursuing export licenses in June of 2007 out of frustration and no one at SDI-US took over that responsibility. POWER acknowledged that their only international exports were to SDI-UK, but maintained that he was not aware of any instances, until the seized export shipment, that SDI-US was shipping licensable materials without the proper export license.

96. POWER only learned about the circumstances surrounding the seized export shipment after the actual seizure. However, POWER admitted that he figured some of their products were making it to SAVAGE in the United Kingdom some way, even without a proper export license. POWER explained that the corporate culture at SDI-US is one that SAVAGE bought the company, built it up, needed to get parts shipped to SDI-UK, and was frustrated with not being able to get the

licenses he needs to accomplish that task. POWER recalled one incident where SAVAGE cursed him out for not being able to get an export license for the magazines that were discussed in the retrieved e-mails. POWER explained that the magazines were a big deal to SAVAGE and then they were just gone from SDI-US. POWER also admitted that it was possible upper receivers were also being shipped to SDI-UK without the proper export licenses from the State Department.

97. ICE agents interviewed CURLETT on October 16, 2009 at the United States Attorney's Office. CURLETT claimed that although he was responsible for overseeing export licenses at SDI-US and had received training in a past job as part of an export compliance program that he was unfamiliar with the State Department's export regulations. CURLETT explained that POWER was responsible for pursuing export licenses, but he became frustrated with that responsibility and no longer wanted it. The responsibility reverted to CURLETT, but he never applied for an export license while at SDI-US and, in fact, he has never seen an export license. CURLETT maintained that he was not aware of any occasions where finished barrels were sent to SAVAGE at SDI-US.

98. ICE agents confronted CURLETT with a retrieved e-mail he sent to SHEARON that discusses SDI-UK's receipt of ten finished barrels. CURLETT denied any knowledge of the shipment or the fact that finished barrels were sent to SAVAGE at SDI-UK. ICE agents confronted CURLETT with a retrieved e-mail between himself, SAVAGE and others that discusses nine thousand five hundred thirty round magazines to the country of Jordan. CURLETT did confess to knowing about the magazines and that they did eventually ship. CURLETT did not know about any export license for the magazines. ICE agents confronted CURLETT with a retrieved e-mail he sent to SAVAGE that discusses a shipment of two chrome lined barrels to SAVAGE. At first CURLETT

denied any memory of the shipment, but then conceded that it “seems possible” that they did send SAVAGE some barrels. CURLETT explained that they were not trying to circumvent the system and wrote it off to his not having paid enough attention.

99. Finally, CURLETT maintained that he was not aware that the export shipment of finished barrels had been seized. CURLETT reviewed documentation and photographs of the seized export shipment. CURLETT identified the contents of the seized export shipment as barrel blanks, finished assault rifle type barrel assemblies, and Styer AUG barrels assemblies upon viewing the photos. Agents confronted CURLETT with the fact that the shipment was described on the manifest as “alloy steel bars, hydraulic connecting tubes and middle connecting tubes.” CURLETT admitted that “bars” and “tubes” are not terms normally used by SDI-US.

100. ICE agents interviewed HILL on December 16, 2009 at the United States Attorney’s Office. HILL denied any knowledge of illegal exports to SDI-UK prior to the seized export shipment. When confronted about the seized export shipment itself, HILL explained that it was normal to ship barrel blanks to SAVAGE, but he did not know why finished barrels would have been shipped underneath the barrel blanks. ICE agents confronted HILL with a retrieved e-mail he received from SAVAGE that discussed suppressors. HILL did not think that suppressors were imported. ICE agents confronted HILL with a retrieved e-mail between he and SAVAGE where SAVAGE claims the invoices are from “fairyland”. HILL did not know what “fairyland” invoices would mean. ICE agents confronted HILL with a related e-mail in which he warned that they are “quite frankly bordering on questionable behavior.” HILL denied any wrongdoing. ICE agents confronted HILL with a retrieved e-mail he sent to SHEARON about how the sandblaster promoted to Chief Financial Officer of SDI-UK can go to jail instead of SHEARON. HILL claimed that he

was unsure of the e-mails meaning and offered that he was on pain medication for a back injury at the time.

H. THE ATF AND ICE JOIN THEIR INVESTIGATIONS OF SDI-US AND SDI-UK.

101. In January of 2010, ATF and ICE joined their investigations of SDI-US and SDI-UK. ICE identified CW2 and ATF located CW2. On January 6, 2010, CW2 was able to further explain what he/she originally reported to the DDTC and he/she also explained and/or put the retrieved e-mails into context. CW2 advised that SDI-US at the TARGET PREMISES essentially operated in two divisions. One consisted of importation and manufacture for a commercial division which conducted the majority of their business through wholesale or law enforcement contracts. The other consisted of a military division which operated in the importation and manufacture of military specified orders including, but not limited to M-16 rifles. CW2 explained that from approximately 2002 through 2004, SDI-US at the TARGET PREMISES was under great pressure from SAVAGE to seek and win a U.S. DOD contract. As a result of that pressure, CW2 indicated that SAVAGE and SDI-US management staff at the TARGET PREMISES communicated ways to avoid certain government oversight regarding the importation of firearms and firearms components in order to compete for these contracts. CW2 explained that in approximately 2006 or 2007, SDI-US submitted an ATF Form 6 to import silencer/suppressor castings to be submitted for testing regarding an open DOD contract. ATF Firearms Technology Branch denied the request, which would have resulted in SDI-US being unable to submit for the DOD testing and potential contract award.

102. Your affiant reviewed an ATF Form 6, Application and Permit for Importation of Firearms, Ammunition, and Implements of War that was submitted to ATF by SDI-US on January

11, 2007. A review of the records revealed that ATF denied the SDI-US request to import eight hundred cast components parts for sound suppressors (silencers) from a company in Finland identified as Ase Utra. On February 1, 2007, the ATF Firearms and Imports Branch responded to SDI-US' Form 6 with a disapproval notification and accompanying correspondence which read in part, "The articles listed on your application come within the purview of the National Firearms Act ("NFA"). A silencer is defined as any device for silencing, muffling, diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication."

103. CW2 stated that, in approximately 2007, upon arriving at the TARGET PREMISES in the morning to begin a work shift, there was a cargo box containing unmarked silencers from the country of Finland. According to CW2, the cargo box was manifested as "mufflers". CW2 indicated that SAVAGE and other SDI-US management began referring to silencers as "lawn mower mufflers" and rifle barrels as "gear shafts." Upon making contact with SAVAGE regarding the silencers from Finland, CW2 explained that SAVAGE instructed him/her to stamp the silencers as though they had been manufactured by SDI-US at the TARGET PREMISES and to apply a serial number to them. Upon preparing the silencers, CW2 was instructed by SAVAGE to complete the appropriate ATF Form 2, Notice of Firearms Manufactured or Imported and designate them as being manufactured by SDI-US at the TARGET PREMISES.

104. CW2 advised your affiant that upon affixing the SDI-US stamps and serial numbers, the Finnish suppressors were then submitted to the DOD testing facility to be tested and considered for the aforementioned DOD contract. CW2 explained that he/she received approximately three

additional silencer shipments from SAVAGE that arrived at the TARGET PREMISES in the same manner. In each of these shipments, there was no ATF Form 6 approval, the contents of the cargo were falsely described on the manifest and the silencer had no ATF regulated markings. CW2 indicated that in addition to being submitted to the DOD, SAVAGE directed SDI-US employees at the TARGET PREMISES to disassemble the suppressors in an attempt to learn the manufacture traits so SDI-US could begin producing silencers at the TARGET PREMISES.

105. CW2 also explained that, in approximately 2007, SEE began overseeing SDI-US shipments to and from SDI-UK. SEE continued to receive undocumented shipments of items at the TARGET PREMISES that were regulated by the government. In addition to being the recipient of such packages from SAVAGE and the SDI-UK staff, CW2 advised that SEE falsely described items on cargo manifests that were bound for export to SDI-UK. This allowed for SDI-US to escape DOS oversight regarding the exportation of firearms and various firearms components as well as minimizing the associated customs duties in the United States and the United Kingdom. CW2 indicated that SEE and other SDI-US employees communicated directly with SAVAGE and SDI-UK employee HARDING regarding the shipments.

106. CW2 detailed the improper handling of SDI-US inventory by employees at the TARGET PREMISES, specifically citing the removal of firearms from the production line and not recording their removal or eventual disposition. CW2 advised that as a result of not being stringent on inventory controls, SDI-US firearms and parts were often removed from the facility and not adequately documented in the A&D records. Often times, the items were written off in the business records as scrapped or salvaged materials. CW2 described at least three occasions when SDI-US employees at the TARGET PREMISES stamped duplicate serial numbers on batches of

lower/receivers. As a result, there were multiple firearms manufactured with a duplicative serial number, but official A&D records only documented one firearm enabling the other to enter circulation without documentation.

107. CW2 advised your affiant that on a number of occasions, a container of SDI-US XR15 lower receivers would be on the assembly floor at the TARGET PREMISES at the end of a shift. Upon exiting the TARGET PREMISES at the end of the shift, quantities of receivers, barrels, and other rifle parts would be designated for assembly the following business day. Prior to returning the following business day, the receivers and other firearms parts were removed from the TARGET PREMISES and unaccounted for. CW2 explained that he/she would personally question SDI-US management concerning the inventory at the TARGET PREMISES and was given a dismissive, unconcerned reply. The lower receivers were packaged at the TARGET PREMISES and loaded in SDI-UK bound cargo.

108. CW2 explained that SDI-US received requests from foreign countries to purchase SDI-US produced firearms. One requesting foreign country was the United Arab Emirates ("UAE"). As a result of their request to purchase fifty firearms, SDI-US sought DOS permission to make the sale and export the firearms. CW2 explained that the DOS denied the request, which prompted SAVAGE to assemble the weapons at SDI-UK and export them to the UAE from the United Kingdom. CW2 stated that a similar issue arose concerning a request from the country of Jordan to purchase two hundred rifles. In an effort to avoid DOS oversight, the rifles were sold from SDI-UK.

109. CW2 explained that SDI-US employees at the TARGET PREMISES frequently undervalued the items being exported from the United States. The purpose of the undervaluing of exports was to avoid Customs duties and related export taxes. CW2 explained that on numerous

occasions, export cargo such as finished rifle barrels were falsely described and mis-labeled at a value of 10 cents, when they should have been described as the appropriate firearms components and valued at several dollars. The undervaluing allowed SDI-US to save money by avoiding the export duties. Additionally, CW2 explained that these undervalued shipments to SDI-UK would allow for the depletion of SDI-US inventory of firearms components at the TARGET PREMISES. The parts were then written off as scrapped or salvaged and reflected as a loss on SDI-US business records. CW2 explained that they were ultimately utilized to assemble completed firearms at SDI-UK.

110. According to CW2, SDI-US maintained a DOD contract to produce M16 rifles and other weapons parts. As a result of this DOD contract, the facility maintained a DOD Technical Data Plan ("TDP") for use in the manufacturing of the weapons to the military's specifications. CW2 explained that the transfer of this knowledge or technology to a foreign national is a violation of the DOD contract. CW2 stated that as SDI-US' Sales and Marketing Director, CURLETT had access to the above-mentioned military TDP. In response to a request by SAVAGE, CURLETT personally transferred the plans to SAVAGE. As discussed above, a retrieved e-mail confirmed the fact that SAVAGE was in possession of the TDP.

111. CW2 explained that SDI-US maintained separate inventory and business records at the TARGET PREMISES relating to the purchase, sale and transfer of SDI-US stock. He/she indicated an official version of the business records was maintained in the front office; however an "unofficial" book was maintained near the rear loading dock area.

112. Your affiant submits that the Court ought to issue a warrant to search the TARGET PREMISES. Probable cause exists to believe that SDI-US employees are engaged in firearms trafficking. As discussed above, the ATF recovered fifty-four completed rifles and/or lower

receivers during the investigation of KERR's trafficking activities. KERR confessed to engaging in firearms trafficking and implicated other SDI-US employees in the same activity.

113. Probable cause exists to believe that SDI-US management and employees are engaged in the illegal importation and exportation of firearms and/or firearms components. ICE seized an illegal export shipment from SDI-US. It was mislabeled and misclassified. ICE identified other export shipments from SDI-US that used the same or similar mislabeling. ICE also seized an illegal import shipment from SDI-UK. It had also been mislabeled and misclassified. SEE confessed to his role in mislabeling and misclassifying the seized export shipment. He also confessed to having done the same thing on other occasions. Other members of management and employees at SDI-US incriminated themselves or made contradictory statements that lacked credibility and appeared to be designed to mislead agents. Retrieved e-mails covering the time period from December of 2003 to February of 2008 confirmed that SDI-US management and employees were engaging in illegal importing and exporting of firearms and firearms components, to include suppressors. There came a time at SDI-US, that although they were sending out export shipments to SDI-UK, no one was even attempting to obtain the proper export licenses from DOS. Some of those shipments ultimately made their way to the Middle East by way of SDI-UK.

114. Probable cause exists to believe that SDI-US maintains records related to those activities. SDI-US generated the Purchase Order Summary and A & D records used in the investigation of KERR. The existence of records was confirmed during the 2007 and 2009 inspections by ATF. The SLI, packing slip and invoice for the seized export shipment were generated by SDI-US. The e-mail correspondence related to that seized shipment and the seized import shipment were generated by SDI-US employees. The retrieved e-mails that confirmed that

SDI-US management and employees were engaging in illegal importing and exporting of firearms and firearms components came from SDI-US. Those same e-mails confirmed the existence of “phony shipping documents” and invoices from “fairy land”. SDI-US maintains an “official” and “unofficial” set of business records and they use the E2 Tracking System to process orders and track inventory.

**VI. THERE IS PROBABLE CAUSE TO BELIEVE THAT
THE EVIDENCE SOUGHT WILL BE FOUND AT
THE TARGET PREMISES**

115. Probable cause exists to believe that the evidence sought will be found at the TARGET PREMISES. As discussed above, SDI-US is a federally licensed Manufacturer and Importer of firearms. In my experience, such manufacturers and importers are going to maintain the records that are sought by the search warrant. Those records include:

A. Any and all files, contracts and agreements, quotations, purchase orders, invoices, purchase order summaries, and acquisition and disposition records related to the sale or other disposition of firearms and/or firearms components to employees of SDI-US;

B. Any and all files, contracts and agreements, subcontracts, quotations, purchase orders, invoices, packing lists, bills of lading, air waybills, Shipper’s Letters of Instruction, Shipper’s Export Declarations, and other shipping documentation, related to the sale or other disposition and shipment of firearms and firearms components by SDI-US to parties located outside of the United States;

C. Any and all files, contracts and agreements, subcontracts, quotations, purchase orders, invoices, packing lists, bills of lading, air waybills, Shipper’s Letters of Instruction, Shipper’s Export Declarations, and other shipping documentation, related to the sale or other

disposition and shipment of firearms and firearms components to SDI-US by parties located outside of the United States;

D. Any and all export and import license applications, commodity classification requests, and supporting documentation concerning these completed or contemplated transactions;

E. Any and all facsimile communications, electronic mail ("e-mail") communications, correspondence, telephone messages, calendars, sale acknowledgments, technical specifications, internal memoranda, notes from meetings and conversations concerning these completed or contemplated transactions;

F. Any and all facsimile communications, electronic mail ("e-mail") communications, and other correspondence with any employees of companies or governments located abroad;

G. Letters of credit, bank drafts and other records of payment concerning these completed or contemplated transactions;

H. Books of original entry, including but not limited to, general, cash receipts, sales, cash disbursements, purchases, payroll and other journals concerning these completed or contemplated transactions;

I. General accounts, accounts receivable, accounts payable, and other ledgers of account concerning these completed or contemplated transactions;

J. Bank records such as statements, check stubs and registers, canceled checks, deposit tickets, debit memos, wire transfer documents, certified check memos, and official cashier's checks memos concerning these completed or contemplated transactions;

K. Tax records concerning these completed or contemplated transactions; and

L. Inventory records, including supporting documents and work sheets concerning these completed or contemplated transactions as required by law and otherwise maintained.

116. In my experience, the records sought typically contain information pertaining to the importation and exportation of firearms and firearms components as well as the disposition of firearms and firearms components to employees. Your affiant knows from training and experience that businesses such as SDI-US routinely maintain records related to the transfer of firearms and firearms components, the acquisition and disposition records related to firearms and firearms components, firearms transaction records, and shipping documents to and/or from other firearms manufacturers, wholesalers and distributors. Your affiant knows from consultation with ICE agents that export sales are subject to regulation by the DOS and businesses such as SDI-US routinely maintain records related to the sale, the fact that the sale occurred, the details of the sale, the identity and location of the foreign purchaser, and the extent of the shipper's disclosure of information required by DOS, commercial shipping companies, and other government agencies.

117. Your affiant knows from training and experience and consultation with ICE that businesses engaged in export sales typically create or receive items such as export documents (electronic and paper), and maintain such items at their place of business. In addition, under the Export Arms Regulations ("EAR"), exporters are required to maintain, for a period of five years from the date of export, all documents related to export transactions, including formal export control documents such as Shipper's Export Declarations or Shipper's Letters of Instruction and Air Waybills or Bills of Lading, along with memoranda, notes, correspondence, contracts, invitations to

bid and financial records. Many of the types of documents set forth in Attachment B are the type an exporter such as SDI-US are required to maintain under the EAR.

118. In your affiant's training and experience, businesses such as SDI-US are going to maintain the records set forth in Attachment B in a location where they can exercise full control over them and can access them quickly. Very often that will be at their primary place of business. The TARGET PREMISES is SDI-US' primary place of business within the United States. In fact, it is SDI-US' only place of business within the United States. The investigation to date has revealed that many of the documents sought are located at the TARGET PREMISES. The Purchase Order Summary and A&D records used in the investigation of KERR were generated by SDI-US at the TARGET PREMISES. ATF confirmed the presence of records, albeit incomplete ones, at the TARGET PREMISES during inspections in 2007 and 2009. The seized export shipment was packed and shipped from the TARGET PREMISES. The paperwork and e-mail correspondence associated with that seized shipment was generated by management at the TARGET PREMISES. The e-mails that confirmed that SDI-US management and employees were engaging in illegal importing and exporting of firearms and firearms components were generated by management at the TARGET PREMISES or sent to management at the TARGET PREMISES and recovered from the TARGET PREMISES by ICE during their investigation. The E2 Tracking System that SDI-US uses to process orders and track inventory is located at the TARGET PREMISES. Finally, the "official" and "unofficial" business records for SDI-US are located at the TARGET PREMISES.

VII. PROCEDURES FOR SEARCHING COMPUTERS

119. Your affiant knows from training and experience that many of the categories of documents set forth in Attachment B are typically maintained on computers. In addition, as

previously observed by ICE and TBI agents, computers are located in the offices of SDI-US. The presence of the computers are further verified as the company maintains a website, has employees that use email, regulates inventory and business activity via a computer tracking database, and generates documents your affiant reviewed that appear to have been generated by a computer.

120. Unless otherwise specifically indicated, the term "computer" refers to the box that houses the central processing unit ("CPU"), along with any internal storage devices (such as internal hard drives) and internal communications devices (such as internal modems capable of sending/receiving electronic mail or fax cards) along with any other hardware stored or housed internally. Thus, "computer" refers to hardware, software and data contained in the main unit. Printers, external modems (attached by cable to the main unit), monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as one package, the term "computer system" is used.

121. "Information" refers to all the information on a computer system, including both software applications and data. The term "computer hardware" refers to all equipment which can collect, analyze, create, display, convert, store, conceal, or transmit electronic, magnetic, optical, or similar computer impulses or data. Hardware includes, but is not limited to, any data-processing devices (such as central processing units, memory typewriters, and self-contained laptop or "notebook" computers); internal and peripheral storage devices, transistor-like binary devices, and other memory storage devices, peripheral input/output devices (such as keyboards, printers, scanners, plotters, video display monitors, and optical readers); and related communications devices (such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers,

automatic dialers, speed dialers, programmable telephone dialing or signaling devices, and electronic tone-generating devices); as well as any devices, mechanisms, or parts that can be used to restrict access to computer hardware (such as physical keys and locks).

122. The term “computer software” refers to digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical, or other digital form. It commonly includes programs to run operating systems, applications (such as word-processing, graphics, or spreadsheet programs), utilities, compilers, interpreters, and communications programs. “Computer documentation” consists of written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software, or other related items.

123. The terms “records,” “documents,” and “materials” include all of the foregoing items of evidence in whatever form and by whatever means such records, documents, or materials, their drafts, or their modifications may have been created or stored, including (but not limited to) any handmade form (such as writing, drawing, painting, with any implement on any surface, directly or indirectly); any mechanical form (such as phonograph records, printing, or typing); any electrical, electronic, or magnetic form (such as tape recordings, cassettes, compact discs, or any information on an electronic or magnetic storage device, such as floppy diskettes, hard disks, backup tapes, CD-ROMs, optical discs, printer buffers, smart cards, memory calculators, electronic dialers, Bernoulli drives, or electronic notebooks, as well as printouts or readouts from or on external media), as well as all related instruction manuals or other documentation and data security devices.

124. Based upon training, experience and information from others involved in the forensic examination of computers, specifically the ATF Digital Evidence Recovery Team, your affiant

knows that computer data can be stored on a variety of systems and storage devices including hard disk drives, floppy disks, compact disks, magnetic tapes and memory chips. I also know that during the search of the premises it is not always possible to search computer equipment and storage devices for data for a number of reasons, including the following:

A. Searching computer systems is a highly technical process which requires specific expertise and specialized equipment. There are so many types of computer hardware and software in use today that it is impossible to bring to the search site all of the necessary technical manuals and specialized equipment necessary to conduct a thorough search. In addition, it may also be necessary to consult with computer personnel who have specific expertise in the type of computer, software application or operating system that is being searched;

B. Searching computer systems requires the use of precise, scientific procedures which are designed to maintain the integrity of the evidence and to recover "hidden," erased, compressed, encrypted or password-protected data. Computer hardware and storage devices may contain "booby traps" that destroy or alter data if certain procedures are not scrupulously followed. Since computer data is particularly vulnerable to inadvertent or intentional modification or destruction, a controlled environment, such as a law enforcement laboratory, is essential to conducting a complete and accurate analysis of the equipment and storage devices from which the data will be extracted;

C. The volume of data stored on many computer systems and storage devices will typically be so large that it will be highly impractical to search for data during the execution of the physical search of the premises. A single megabyte of storage space is the

equivalent of 500 double-spaced pages of text. A single gigabyte of storage space, or 1,000 megabytes, is the equivalent of 500,000 double-spaced pages of text. Storage devices capable of storing fifteen gigabytes of data are now commonplace in desktop computers. Consequently, each non-networked, desktop computer found during a search can easily contain the equivalent of 7.5 million pages of data, which, if printed out, would completely fill a 10' x 12' x 10' room to the ceiling; and

D. Computer users can attempt to conceal data within computer equipment and storage devices through a number of methods, including the use of innocuous or misleading file names and extensions. For example, files bearing names with the extension "jpg" often are image files; however, a user can easily change the extension to ".txt" to conceal the image and make it appear that the file contains text. Computer users can also attempt to conceal data by using encryption, which means that a password or device, such as a "dongle" or "keycard," is necessary to decrypt the data into readable form. In addition, computer users can conceal data within another seemingly unrelated and innocuous file in a process called "steganography." For example, by using steganography a computer user can conceal text in an image file which cannot be viewed when the image file is opened. Therefore, a substantial amount of time is necessary to extract and sort through data that is concealed or encrypted to determine whether it is evidence, contraband or instrumentalities of a crime.

125. In searching for data capable of being read, stored or interpreted by a computer, law enforcement personnel executing this search warrant will employ the following procedures:

A. Upon securing the premises, law enforcement personnel trained in searching and seizing computer data (the "computer personnel") will make an initial review of any

computer equipment and storage devices to determine whether these items can be searched on-site in a reasonable amount of time and without jeopardizing the ability to preserve the data;

B. If the computer equipment and storage devices cannot be searched on-site, and it has been determined that the items are not instrumentalities or fruits of the offenses stated above, do not contain contraband, and are not otherwise illegally possessed, then the computer personnel will determine whether it is practical to copy the data during the execution of the search in a reasonable amount of time without jeopardizing the ability to preserve the data;

C. If the computer personnel determine it is not practical to perform an on-site search or make an on-site copy of the data, then the computer equipment and storage devices will be seized and transported to an appropriate law enforcement laboratory for review. The computer equipment and storage devices will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized set forth herein;

D. If law enforcement personnel determine, either on-site or during a subsequent off-site search, that any computer equipment, storage device or data (1) is an instrumentality of the offense stated above, meaning that it was designed or intended for the use of, or is being or has been used, as the means of committing the offense; (2) contains any contraband, such as counterfeit or stolen software, child pornography, national security information, or unauthorized access devices such as stolen credit card numbers; (3) is the fruits of criminal activity; or (4) is otherwise criminally possessed, the property shall be seized and not

returned pursuant to Federal Rule of Criminal Procedure 41 (b);

E. Any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offense, (2) a fruit of the criminal activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the offense specified above;

F. In searching the data, the computer personnel may examine all of the data contained in the computer equipment and storage devices to view their precise contents and determine whether the data falls within the items to be seized as set forth herein. In addition, the computer personnel may search for and attempt to recover "deleted," "hidden," or encrypted data to determine whether the data falls within the list of items to be seized as set forth herein; and

G. If the computer personnel determine that the computer equipment and storage devices are no longer necessary to retrieve and preserve the data, and the items are not subject to seizure pursuant to Federal Rule of Criminal Procedure 41(b), the government will return these items within a reasonable period of time not to exceed (10) days from the date of seizure.

126. In order to search for data that is capable of being read or interpreted by a computer, law enforcement personnel will need to seize and search the following items, subject to the procedures set forth above:

A. Any computer equipment and storage device capable of being used to commit, further or store evidence of crimes of the type characterized by the federal offenses listed above;

B. Any computer equipment used to facilitate the transmission, creation, display, encoding or storage of data, including word processing equipment, modems, docking stations, monitors, printers, plotters, encryption devices, and optical scanners;

C. Any magnetic, electronic or optical storage device capable of storing data, such as floppy disks, hard disks, tapes, CD-ROMs, CD-R, CD-RWs, DVDs, optical disks, printer or memory buffers, smart cards, PC cards, memory calculators, electronic dialers, electronic notebooks, and personal digital assistants;

D. Any documentation, operating logs and reference manuals regarding the operation of the computer equipment, storage devices or software;

E. Any applications, utility programs, compilers, interpreters, and other software used to facilitate direct or indirect communication with the computer hardware, storage devices or data to be searched;

F. Any physical keys, encryption devices, dongles and similar physical items that are necessary to gain access to the computer equipment, storage devices or data; and

G. Any passwords, password files, test keys, encryption codes or other information necessary to access the computer equipment, storage devices or data.

VIII. CONCLUSION

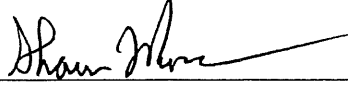
127. Based on the information contained herein, your affiant believes that probable cause exists to believe that the evidence and/or the instrumentalities of criminal activities as detailed before in this affidavit will be found at the TARGET PREMISES. More specifically, based on my knowledge, experience and the results of the joint investigation by the ATF and ICE, there is probable cause to believe that the items listed in Attachment B to the Search Warrant will be found

at the TARGET PREMISES. Therefore, based on my knowledge, training, experience and the results of the investigation presented in this affidavit, I believe that evidence and property designed for use, intended for use, and used in committing the criminal offenses described herein, are being concealed at the TARGET PREMISES.

128. I therefore request that a Search Warrant be issued for the TARGET PREMISES (including any attachments, outbuildings, appurtenances thereto and vehicles upon the property), property constituting evidence of the commission of criminal offenses and fruits, instrumentalities and otherwise evidence and property designed to commit such offenses.

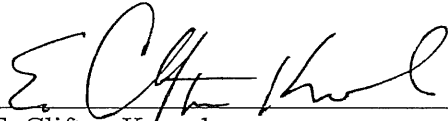
129. Procedures will be undertaken to minimize any disruption of SDI-US business including the utilization of the ATF Digital Evidence Recovery Team, a specialized computer forensic team trained to examine large computer systems in an efficient and effective manner. Additionally, the ATF administered operation will conduct a continuous search and/or seizure operation, once initiated, twenty-four hours a day until completed. If necessary, representatives of SDI-US will have access to the documents and records as needed, under Government supervision, while they are being copied.

130. Given the confidential nature of the ongoing investigation, your affiant respectfully requests that this affidavit, and the application to which it is attached, be maintained under seal until this Court orders otherwise.



Shawn Morrow
Special Agent
Bureau of Alcohol, Tobacco Firearms and
Explosives – Nashville Field Division

Sworn to before me this 11th day of February, 2010



E. Clifton Knowles
United States Magistrate Judge